at 80,000 pounds to alternate with our normal scale at minimum weight of 60,000 pounds, and the Seaboard often alternates the two scales.

I do not find where the Interstate Commerce Commission has passed on the reasonableness of either of these net transit log scales, but it did refer to the Seaboard's net transit scale in its report in the 13th section case against rates on logs via the Coast Line in Florida, 186 ICC at page 163. On page F-13 I have shown comparison of the per car revenue under the transit scales at the minimum weights, compared with per car revenue at various weights on four low rated commodities, namely, sand and gravel, roadway cold patch material, crude phosphate rock and common brick. The per car revenue, even at 80,000 pounds, under the net transit log scales, is seen to be very much lower than the per car earnings on the other commodities with which compared. All of these other commodities, like logs, move to a large extent in open top or gondola equip-
[fol. 960] ment. Incidentally, as indicated on pages B-10 and B-50, Section B of my exhibit, the average loading for logs terminated by the Coast Line during the test period (this does not include movement under three special train load rates) was 57,535 pounds per car, and that for the Seaboard was 46,319 pounds per car.

On pages F-15 through F-19, I have compared the net transit rates of the Coast Line and of the Seaboard, as mileage scales, with the local mileage scale rates on logs. This is simply to show that the net transit rates are lower than the local or open mileage scale rates on logs.

On pages F-20 through F-25 of Section F, there have been shown representative point to point net transit rates on logs, where the distances are above 125 miles, as published by the Coast Line and the Seaboard. For both the Seaboard and the Coast Line the net transit rates are shown on an alternating basis, the higher rate being subject to minimum weight of 60,000 pounds and the lower rate being subject to minimum weight of 80,000 pounds. These are the net transit scales of the Coast Line and Seaboard, respectively, as extended for distances beyond 125 miles. The net transit rates shown are here compared with the local mileage scale rates on logs, the net transit rates always being lower than the local mileage scale rates. On pages

F-26 through F-29 I have indicated the special rates published by the Coast Line on logs, when in train load lots, from Copeland to Perry, from Walling to Lacoochee, Fla., and from points on the southern end of the Coast Line's Everglades Branch to Lacoochee, Fla. It will be noted that these train load rates are graduated, in accordance with the number of train loads shipped per calendar month, the lowest per car rate being when nine or more train loads per month are shipped. These rates are compared with the Coast Line's net transit scale at minimum charge of 60,000 pounds. It will be noted that in all cases the train load rates are materially lower than the normal net transit rates.

[fol. 961] Another witness has taken the burden of showing the rate situation in Florida as to pulpwood, but the movements and rates on pulpwood are of such importance to the Coast Line that I desire to supplement what he will have to say with regard to this commodity.

Within Florida, the normal rates on pulpwood are 1/10 of Class P per cord of 128 cubic feet. This basis was prescribed by the Florida Commission after full hearing in its Docket 1085, Order No. 1036, of May 28, 1931. That rating is now published in Florida Classification No. 11, Agent R. E. Boyle, Jr's. ICC 79. There has been applied within most sections of the South, certainly to the paper mill plants in Virginia, North Carolina, South Carolina, Georgia and Florida, commodity rates for single line hauls which are made on what is known as the "Roanoke Rapids" scale. Some roads publish such rates as a mileage scale, but the Coast Line has never published such rates except as specific point to point commodity rates for single line hauls. The Roanoke Rapids scale was originally the same interstate and intrastate, wherever it was published, but since the Ex Parte 123 increase, the intrastate rates voluntarily established on the Roanoke Rapids scale have not received in all instances the same increases as have been made on interstate traffic, nor have the increases as obtained in the several states been uniform. When I speak of the Roanoke Rapids scale, it should be understood as meaning that scale as just prior to Ex Parte 123 with such increases as have been authorized on interstate or intrastate traffic since that time.

The Coast Line has at no time voluntarily established rates on basis of the Roanoke Rapids scale except with the implicit understanding that it would receive outbound tonnage of the product from processing the pulpwood equivalent to the ratio of the product obtained from the amount of pulpwood brought in by the Coast Line. In some instances, the rates so published by the Coast Line have not been made subject to specific transit rules, but a great many [fol. 962] of our pulpwood rates voluntary established on the Roanoke Rapids scale are subject to specific transit rules and regulations. Reference is here made to Section 3 of Coast Line's Wood Tariff, Freight Tariff 91-30-I, ICC B-3168, which publishes 13 pages of rates made on the Roanoke Rapids scale which are subject to specific transit rules and regulations. Within Georgia, the Georgia Commission required establishment of rates on a scale which is practically the same as the Roanoke Rapids scale, the usual variation therefrom being from one-half cent to one cent per cord, as open single line scale rates, and the North Carolina Utilities Commission has likewise recently required the Roanoke Rapids scale to be published as open rates on intrastate traffic. The Coast Line and Seaboard have pending in the North Carolina Courts an appeal against the rates required in that state. The Florida Commission, in its decision of April 23, 1948, Order 1488 in Docket 1598, required the Coast Line to establish the Roanoke Rapids scale as an open scale from Florida points on that road to Palatka, Fla. The increases reflected in the original Roanoke Rapids scale as prescribed from Coast Line origins to Palatka was 10 per cent under Ex Parte 123, 9 per cent under Ex Parte 162 and 20 per cent under Ex Parte 166, or rather under the Florida counterpart of those Ex Parte decisions. The Coast Line petitioned the Florida Commission for reconsideration on July 6, 1948, but that petition was denied by Order 1526 in Docket 1598 of December 30, 1948. The Coast Line has filed, or will file shortly, suit in Federal District Court, seeking to have it set aside Florida Commission's Order 1488, on the ground of confiscation.

I will attempt to show, by Section G of my exhibit, the exceedingly low level of the Roanoke Rapids scale and of the classification basis of 1/10 of Class P in Florida on

pulpwood. On page G-2 there are shown the basic rates, that is, of June 30, 1946, under the 1/10 of Class P Florida intrastate rates, under the Roanoke Rapids scale, and under the so-called "Bailey Scale" which has been adopted [fol. 963] rather generally as the basis for rates on pulpwood in eastern trunk line territory, and have shown average car revenues obtained from these three pulpwood scales. Compared therewith, there are shown the rates and the average per car revenues on sand, gravel, etc., under the basic southern scale as applicable north of the Florida peninsula on those commodities. I have already explained what is meant by the Roanoke Rapids scale and how the 1/10 of Class P comes into the picture on Florida intrastate traffic. In eastern territory the "Bailey" scale has generally been used within what is known as "eastern trunk line territory" since about the first part of 1943 in the establishment of rates on pulpwood to paper mill plants. It is materially lower than the rates which were, prior to that time, generally applicable within Official territory. It will be noted that the rates under the "Bailey" scale are stated in cents per 100 pounds, while the Florida intrastate rates are in cents per cord. The pulpwood obtained in the South will weigh more per cord than that in the East. Within Florida the weight will usually run something over 5,000 pounds per cord of 128 cubic feet, but as the Coast Line in its Wood Tariff publishes an estimated weight of 5,000 pounds per cord, I have observed that weight in making my calculations. When Mr. Bailey, then Traffic Manager of the West Virginia Pulp and Paper Company, submitted the Bailey scale to the eastern roads for consideration, he advised that pulpwood which would move on that scale would weigh approximately 4,400 pounds per cord. In statement made by Mr. Wilbur LaRoe, representing the paper industry in Ex Parte 166, he indicated that the rates on woodpulp in Official territory were designed to apply on wood weighing 3,300 pounds per cord. The difference between those weights reflects the difference between peeled dry pulpwood and the pulpwood with the bark on which is more or less green. However, using the lower of those weights, that is, 3,300 pounds per cord, in connection with the Bailey scale, that scale produces a higher per cord

[fol. 964] rate than does the Roanoke Rapids scale. Beginning at line 8 on page G-2 it will be noted under the Bailey scale that a rate of 5 cents per 100 pounds, basic, is applicable for distances 80 miles and over 40 miles. At 3,300 pounds per cord that would produce a rate of $1.65 per cord, whereas the Roanoke Rapids scale runs from $1.24 to $1.56 per cord for those distances. At lines 20 and 21 on page G-2, it is seen that basic rate of 7 cents per 100 pounds applies under the Bailey scale for distances 160 miles and over 140 miles. At 3,300 pounds per cord that is equivalent to rate of $2.31 per cord, whereas under the Roanoke Rapids scale the per cord rate is either $2.01 or $2.17.

On pages G-2 and G-3, average revenue per car under the Florida intrastate rates which are based 1/10 of Class P, also for the Roanoke Rapids scale rates, are shown, using for this purpose an average loading of 15.12 cords which is arrived at by taking the average loading of 37.80 tons for southern region in the year 1948, and using 5,000 pounds per cord to get at the average number of cords. The average revenue per cord under the Bailey scale is also shown on basis of using the average loading for pulpwood in the eastern district for 1948. Particular attention is called to the showing that the Roanoke Rapids scale produces very much lower per car revenue than does the Bailey scale. The average per car revenue under the Roanoke Rapids scale for distances shown on pages G-2 and G-3 is $42.13, that for the Bailey scale being $60.92. The Bailey scale produces revenue per car of approximately 44.6 per cent higher than does the Roanoke Rapids scale. Also, on pages G-2 and G-3 the average per car earnings on pulpwood are compared with the average per car earnings on sand, gravel and crushed stone, using average loading for southern region in connection with the basic scale of rates now applicable generally in southern territory north of the Florida [fol. 965] peninsula. The per car revenue on what is ordinarily considered to be the lowest rated traffic is seen to be nearly double that received under the Roanoke Rapids scale.

On page G-4 I have made comparisons of the basic rates under ICC Docket 14883 scale with the Bailey scale, the Coast Line's normal scale on pulpwood and the Roanoke Rapids scale. The ICC Docket 14883 scale is that which

was prescribed, 104 ICC 495, on pulpwood from points in Maryland, Virginia, West Virginia and the District of Columbia to various points in West Virginia, Maryland, Delaware and Pennsylvania. That decision is dated December 17, 1925, and the 10 per cent increase under Ex Parte 123 has been added to arrive at the basic level of the Docket 14883 scale. That scale was the one generally in use in eastern trunk line territory before the roads in that territory voluntarily adopted the Bailey scale. The Coast Line's normal scale on pulpwood is the one which would apply in interstate movements of pulpwood where the Coast Line is not assured of the outbound haul of the products of the pulpwood. The Coast Line handles a considerable quantity of pulpwood at rates on this normal pulpwood scale. During the year 1948 the Coast Line handled 1,966 cars of pulpwood from interstate origins on its line which moved to a destination reached only by the Seaboard, on which the Coast Line's normal scale of rates was applied for the haul up to the junction with the Seaboard.

The Roanoke Rapids scale as shown on page G-4 has been reduced to cents per 100 pounds, using an estimated weight of 5,000 pounds per car for this purpose. At various times, [fol. 966] tests have been made of the weights per cord of 128 cubic feet for movement of pulpwood to various plants in the South. Such a test was made during 1944, and for 501 cars the average weight was found to be 5,186 pounds. That test was made at 16 mills scattered from Franklin, Va., to Bogalusa, La. Movements to four mills in Florida were included, the average weights per cord of 128 cubic feet found to four Florida points varying from a low of 5,048 pounds to a high of 5,569 pounds.

At the bottom of page G-4, there is quoted an excerpt from decision of the Interstate Commerce Commission in I&S Docket 4631, reported 235 ICC 11, in which the Commission refers to the Roanoke Rapids scale as a depressed basis, and as being essentially a transit scale. The Coast Line now considers and it has always considered the Roanoke Rapids scale to be so low as to be non-compensatory, unless we can obtain the haul of the product manufactured from the pulpwood.

At page G-5, I have compared the rates (as increased 10% under Ex Parte 123) on pulpwood which, in I&S

Docket 3575, reported 178 ICC 509, the Commission found to be reasonable from Coast Line stations in Alabama to Dothan, Ala., when for Panama City, Fla., as compared with the Coast Line's normal pulpwood scale and with the Florida rates which are 1/10 of Class P. At the time that decision was given the Coast Line's normal pulpwood scale was the same as that found reasonable in I&S Docket 3575, except for the last two distances shown of 180 and 190 miles, where the Coast Line's normal scale was 9 and 9½ cents as against 8½ cents which the Commission found reasonable.

[fol. 967] In its decision in ICC Docket 16295, of July 19, 1926, reported 113 ICC 389, following investigation into the rates on fertilizer materials between southern points, the Commission therein prescribed a scale of rates, subject to minimum weight of 40,000 pounds, for application on interstate traffic throughout the South. That scale was made effective on both interstate and intrastate traffic within the South. It contained no arbitrary for the south Florida haul. This scale, the Docket 16295 scale, remained in effect without change, other than the increase under Ex Parte 123, as authorized by the Interstate Commerce Commission and the several state commissions, until September 9, 1939, when severe reductions were made for distances 300 miles and under, in order to meet truck competition which had become severe for the shorter distances, with graduated scale to merge with the 16295 scale, as increased under Ex Parte 123 at 471 miles. The trucks, mostly contract trucks, were found to be handling the mixed fertilizer from the manufacturing plants and delivering same to the farmers' fields or storehouses at approximately the cost for obtaining station delivery or side track delivery by rail. The Florida East Coast chose, instead of reducing the rates on its line on intrastate traffic, to continue to Docket 16295 scale as increased under Ex Parte 123, and make an allowance of 75 cents per ton to the consignee. This same scheme was followed by the Seaboard to stations on its line — Plains, Fla., and east or south thereof, Plains being about midway between Sebring and Okeechobee, Fla. The Coast Line also chose to follow this method to stations on its line from Harrisburg, Fla. to Lake Harbor, Fla., inclusive.

There two portions of the Seaboard and Coast Line are contiguous to Florence East Coast territory.

The reduction which had been made in the fertilizer scale for the shorter distances, with lesser reductions for distances 300 to 470 miles, and no reductions for greater distance, caused such complaints, particularly from the [fol. 968] fertilizer manufacturers located some distance from the ports that, following conference between traffic executives of southern roads and the fertilizer manufacturers, a further revision in the fertilizer rates applicable generally throughout the South was made effective January 21, 1941. Thereunder the rates for distances up to approximately 280 miles were made strictly with regard to truck competition, and the rates for greater distances were graded so that at 390 miles the original Docket 16295 scale was reached, and the original Docket 16295 scale was then applied for distances above 390 miles. Within Florida the rates were revised effective January 21, 1941, on the same basis as was observed elsewhere in the South, excepting that to points on the Florida East Coast and to stations on the Seaboard, Plains, Fla., and east or south thereof, on the Coast Line, Harrisburg to Lake Harbor, inclusive, there was continued the Docket 16295 scale, as increased under Ex Parte 123, with an allowance of 75 cents per net ton to consignees to cover cost of delivery from railway station to consignee's warehouses, farms, groves or other delivery points. While the minimum weight in connection with the original Docket 16295 scale was generally 40,000 pounds, the minimum weight applied in connection with the reduced rates as made effective January 20, 1941, was generally 60,000 pounds, except that within the Florida peninsula the minimum weight remained at 40,000 pounds.

In the decision in Docket 16295 the Commission applied the same scale of rates both on mixed fertilizer and on fertilizer materials. Within Florida there had been, and still is, in the Florida Classification, a rating of 75 per cent of Class M on various fertilizer materials. The rates on basis of 75 per cent of Class M were generally lower than the Docket 16295 scale, when applied for single line distances. The 75 per cent of Class M rates are published only as a single-line scale, and where two line hauls are in-

volved the rates for 75 per cent of Class M are made on combination less the Florida statutory deduction which [fol. 969] is 10 per cent when the traffic moves over two roads and 20 per cent when the traffic moves over three or more roads. The 75 per cent of Class M basis usually resulted in higher than the Docket 16295 scale rates when two or more lines hauls are required. Since the reduction voluntarily made in that scale to meet truck competition, the 75 per cent of Class M rates are, in many instances, higher for single line hauls than the regular fertilizer scale. Several attempts have been made without success, to obtain authority from the Florida Commission and from the Interstate Commerce Commission to cancel the 75 per cent of Class M rates on these fertilizer materials in Florida. Presently, the lower rates obtained under either the general fertilizer basis or the 75 per cent of Class M basis is applied on nearly all of the materials which are classed at 75 per cent of Class M, as will be shown in that portion of my exhibit which I will next refer to.

Section H of my exhibit sets forth the situation as to the Florida intrastate rates on fertilizer.

On page H-2 there is shown the different sections of Florida, with reference to the fertilizer scales which apply from or to those particular sections of the state. It will be noted that a column is referred to in the center of the page, under the heading "Rate Application." The letters shown in this column are used in the succeeding pages to indicate the particular scale to which reference is made. As spread out on this page the adjustment looks more complicated than it really is. As to the mixed fertilizers, there are really only two separate adjustments in effect. One of these is to destinations on the Florida East Coast and a small part of the Seaboard and Coast Line in southeast Florida, the rates to this section of Florida being on the Docket 16295 scale increased 10 per cent under Ex Part 123, with subsequent increase as authorized by the Florida Commission, and out of which rates the consignee is made an [fol. 970] allowance of 75 cents per net ton. In the balance of the state the rates on mixed fertilizers are on the truck competitive scale, which is generally applicable throughout the South, but with minimum weight of 60,000

pounds when the movement is north of the Florida peninsula, and 40,000 pounds when the movement is wholly within the Florida peninsula or between Jacksonville and the Florida peninsula, other than to or from the station on the Florida East Coast or the small portions of the Seaboard and Coast Line which are most nearly adjacent to the Florida East Coast.

Pages H-3 and H-4 of this section set forth the rates as applicable on Florida intrastate traffic, basic and as increased under Ex Parte 162 (FR&PUC Order 1443). No increase was authorized by the Florida Commission on fertilizer or fertilizer materials, either carloads or less carloads, under Ex Parte 166, FR&PUC Docket 1574, Order 1466 (C). Pages H-6 and H-7 of this section compare the scales applicable within Florida with the interstate scale as applicable between Florida points (these interstate scales are also applicable from southern states north of Florida to Florida); the increases, as obtained intrastate and interstate, being shown. The rates shown under Columns A and B are the truck competitive rates which are applicable throughout Florida except to points on the Florida East Coast and a minor portion of the Seaboard and Coast Line in southeast Florida. Note at line 19 on page H-6, that for 100 miles the interstate scale, including the Ex Parte 162 and 166 increases, is $2.03 per net ton, while for the same distance on Florida intrastate traffic the present rate is $1.62 per net ton. As an illustration of discrimination, the rate making distance from Valdosta, Ga., to Gainesville, Fla., is 114 miles, and from Tampa, Fla., to Gainesville, Fla., is 136 miles (rate basis numbers shown in Agent Spaninger's Fertilizer Tariff, ICC 975). The rate on fertilizer, carload, from Valdosta, Ga., to Gainesville, Fla., is $2.33 per net ton as shown on interstate traffic for distance of 114 miles at line 21 at page H-6 while from Tampa, Fla., to Gainesville, Fla., the rate is $2.10 per net ton as shown under [fol. 971] Column B opposite line 23 on the same page.

On page H-8 of this section, there is set forth the fertilizer materials which are rated 75 per cent of Class M in the Florida Classification. Some of the commodities are not carried in the general fertilizer list applicable on Florida intrastate traffic, and these commodities are shown opposite line 3 to 11, inclusive. On these commodities the 75 per cent

of Class M is the only basis of rates for application. Other of the commodities, and these include the fertilizer materials which move in the largest volume, are included in the list of fertilizer materials carried in the Fertilizer Tariff, these being shown opposite lines 15, 16, 17 and 21 through 29. Where fertilizer material is listed in both the Florida Classification and the Fertilizer Tariff, the lowest charge available under either tariff will apply.

On pages H-9 and H-10 of this section, there is shown the single line scale applicable over the Coast Line, Seaboard, Florida East Coast and L&N on fertilizer materials under the 75 per cent of Class M basis, the Florida intrastate rates on mixed fertilizers and fertilizer materials as published in the Fertilizer Tariff, and the interstate rates on fertilizer and fertilizer materials. It will be noted that the single line scale basis of 75 per cent of Class M is higher than the intrastate fertilizer truck competitive scale for distances up through 220 miles—line 5 on page H-10, but for greater distances than 220 miles the 75 per cent of Class M rate is lower than the truck competitive fertilizer scale.

On pages H-9 and H-10 there is also shown, in the last column, the Docket 16295 scale as increased 10 per cent under Ex Parte 123, 20 per cent increase under Ex Parte 162 and 25 per cent under Ex Parte 166 (limited to the maximum increase, where that would come into play). This is the present day equivalent of the scale on fertilizer and fertilizer materials, which the Interstate Commerce Commission prescribed as maximum reasonable rates on fertilizer and fertilizer materials within the South. As recently as January, 1948, in International Minerals and Chemical [fol. 972] Corporation v. Atlantic Coast Line Railroad, 269 ICC 611, the Commission used the Docket 16295 fertilizer scale, as increased 10 per cent under Ex Parte 123 as the underlying basis for the rates it prescribed on phosphate rock from south Florida points to various southern points, the rates prescribed having been predicated on 75 per cent of that scale, with authority to increase as per the general increases authorized by the Commission since June 30, 1946.

While sulphur is not a fertilizer material, and is not included in the fertilizer material list, on interstate traffic in the South, it is included in the fertilizer materials list on Florida intrastate traffic, that is, in the Fertilizer Tariff, not the 75 per cent of Class M list. Where sulphur moves on the

fertilizer rate intrastate in Florida no increase has been authorized under Ex Parte 166, FR&PUC Docket 1466 (C). Where rates have been published on sulphur different from (that is, less than on) fertilizer, the increase on intrastate traffic is 20 per cent under FR&PUC Docket 1466 (C) instead of 25 per cent as under Ex Parte 166. On pages H-11 and H-12, I have shown the intrastate Florida scale on fertilizer and fertilizer materials, as increased 20 per cent for the Ex Parte 162 (FR&PUC Order 1443) proceedings and have also shown the Class 18½M rates both within Florida and interstate, the latter including the increases authorized under the state or interstate permissive orders. Class 18½M is the exceptions rating published for application throughout southern territory, including Florida intrastate traffic, but the Class 18½M rates would have no application in Florida because the fertilizer rates are lower.

Section J of my exhibit shows the rates on citrus pomace intrastate between points in Florida as compared with interstate rates in southern territory north of the Florida peninsula. The present rates are those including increases through Ex Parte 166 or Florida Commission's Order 1466 (C). The sought rates as shown within Florida represent merely the full measure of the Ex Parte 162 and 166 increases. The rates on citrus pomace, carloads, between points in Florida [fol. 973] are the same as the fertilizer, carload, rates. Citrus pomace is obtained by pressing the water and juices from cannery refuse which is left from the canning of citrus juice or citrus sections, then grinding the pomace and subjecting it to rather intense heat for a certain period. When this product began to be made in some quantities, about 1935, a representative of the Seaboard's freight traffic department and I conferred with the manufacturer who brought to our attention the need for rates on this new commodity. We were advised, and I do not doubt that that advice was given in all good faith, that dried ground citrus pomace could be used as a substitute for soybean meal in preparing mixed feed, or as a fertilizer ingredient. We were also advised that there was no likelihood that the commodity would be used in Florida for other than as a fertilizer ingredient. Based on these two assumptions, both of which have later been proven incorrect, we established on the dried ground citrus pomace from Florida to interstate destinations the

same level of rates which the Interstate Commerce Commission, in ICC Docket 17000, part 8, reported 188 ICC 605, had prescribed on soybean meal, namely, Class 18½; and on intrastate Florida traffic we placed citrus pomace in the fertilizer group. When the more or less experimental stage was passed, it developed that dried ground citrus pomace is in no way competitive with soybean meal, but is competitive with beet pulp, and that there was much demand for citrus pomace in Florida as a mixed feed ingredient, with no use at least for the last ten years insofar as I can find, of this commodity as a fertilizer or fertilizer material. The importance of this commodity from a tonnage and revenue standpoint is indicated by the movement between Florida points developed during the four weeks test period as set forth in Section B of my exhibit. The terminations for that period on the Coast Line were 87 cars, on the East Coast 65 cars, on the L&N 3 cars and on the Seaboard 87 cars; a total of 252 cars with lading of slightly over 6,938 tons.

In the Ex Parte 162 proceeding, the Interstate Commerce Commission authorized 15 per cent increase on "pomace, NOIBN." The term "NOIBN" as there used does not mean not otherwise indexed by name in the Classification but not otherwise specified in the Ex Parte 162 decision. On [fol. 974] fertilizer and articles listed as taking the fertilizer rates in the rate tariff, the increase under Ex Parte 162 was 20 per cent with maximum increase of $1.20 per net ton. The rates on fertilizer between points in Florida are not high enough for the maximum increase to come into play. As citrus pomace is listed in the Fertilizer Tariff as taking intrastate fertilizer rates on Florida intrastate traffic the increase of 20 per cent under Ex Parte 162, FR&PUC Order 1443, was applied on citrus pomace. It has already been explained that within Florida no increase was allowed on fertilizer and articles taking fertilizer rates under FR&PUC Order 1466 (A) and 1466 (C) corresponding to the Ex Parte 166 case.

In Section J of my exhibit there are shown the present rates and the rates sought under the proceeding on citrus pomace, carload, between Florida points, and comparison is made of the Florida rates with the interstate rates applicable north of the Florida peninsula on Classes 22½V and 18½. The interstate Class 22½V and Class 18½ were

increased 15 per cent under Ex Parte 162 and 25 per cent under Ex Parte 166. I have explained that the carriers voluntarily established Class 18½ on citrus pomace between southern points, to take care of the movement from south Florida to interstate destinations. That rating is published with a restriction that it will not apply where milling or mixing in transit privileges are granted on citrus pomace. Class 22½V, the rating which is applicable on grain and grain products within the South, is published on citrus pomace when milling or mixing in transit privileges thereon are granted. Class 22½V is applicable within the South on beet pulp, the commodity with which citrus pomace is most nearly in competition. In the Southern Grain Case, I&S Docket 4208, including also Docket 17000, part 7A, 259 ICC 629, the Interstate Commerce Commission found Class 22½V to be reasonable on grain and grain products, including beet pulp, between southern points. Attention is called to the fact that, as shown on pages J-2 and J-3 of my exhibit, the intrastate Florida rates on citrus pomace, carloads, are materially lower that the interstate Class 18½ rates as applicable in the territory north of the Florida peninsula, and are still lower than Class 22½V rates.

[fol. 975] There is presently pending before the Florida Commission, in its Docket 1504-A, an application of the Florida carriers to increase the basic rates on citrus pomace to be Class 19, without the Florida arbitrary, which basis approximates the level of the truck competitive rates which have been established on grain and grain products from Jacksonville and Tampa to many south Florida points, and which is approximately the level of the truck competitive rates on a number of items in the grain and grain products list from south Georgia and southeast Alabama to south Florida points. We are not, under this proceeding, attacking the basic level of the Florida rates as we hope to bring them up to a more nearly normal basis under the handling before the Florida Commission in its Docket 1504-A. We do, however, seek, in this proceeding, the 25 per cent increase which was obtained under Ex Parte 166 on interstate traffic.

Within Florida, blackstrap molasses, carload, in tank cars, moves under Commodity Column 14 (this is 14 per cent of the Docket 13494 system of first class rates), as published in Item 395-G, Supplement 188 to Agent C. A. Spaninger's

Florida Tariff, Freight Tariff 711-B, ICC 519, the Florida arbitraries being waived. Interstate, within the South, the movement of blackstrap molasses is generally on specific commodity rates, most of which are higher than 14 per cent of first class. The general rating on interstate movements is Class 20, as published in Item 18650 of Note B Exceptions, Agent R. E. Boyle, Jr's. Exceptions 25 to Southern Classification, ICC 105.

There is a substantial movement of blackstrap molasses intrastate in Florida, the record for the Coast Line showing that for the year 1948, the movement from Clewiston in intrastate Florida traffic was 60 tank cars with total weight of 5,269,140 pounds. There was also a movement from Fellsmere, Fla., and from Jacksonville, Fla.

In Section K of my exhibit, I have set forth the specific commodity rates from New Orleans, La., Savannah, Ga., Norfolk, Va., and Clewiston, Fla., to interstate destinations, [fol. 976] showing the relationship of the commodity rates to the Docket 13494 K-2 first class scale, as modified for distances 190 miles and under. This shows that the interstate rates from each of these more important shipping points of blackstrap molasses to interstate southern points of distances comparable to those encountered in Florida, are usually higher than 14 per cent, running from 14% to 21%. Pages K-2 and K-3 also show what 14 per cent of the first class rates, as applicable in connection with the exceptions ratings, would produce for the distances involved. In every instance except one, that being in connection with the rates from Clewiston, Fla., to Huntsville, Ala., shown at line 10 on page K-3, 14 per cent of the first class rates would be less than the specific commodity rates indicated from New Orleans, La., Savannah, Ga., Norfolk, Va., and Clewiston, Fla., to interstate southern destinations. These pages also show what 14 per cent of the Docket 13494 first class rates without the Florida arbitraries are on Florida intrastate traffic, as increased 20 per cent under Florida Commission's Order 1443 and again increased 20 per cent under its Order 1466 (C) which corresponds to the Ex Parte 162 and 166 proceedings.

The Interstate Commerce Commission has not passed on the level of the interstate rates on blackstrap molasses

within the South, but it has, in several decisions, passed on specific point to point rates. The latest one of these was in ICC Docket 29864, reported 270 ICC 710, where it found that rate of 46 cents per 100 pounds, prior to the general increases of July 1, 1946, or subsequent thereto, to have been not unreasonable. The first class basic rate under the Docket 13494 system, from Clewiston, Fla., to Mobile, Ala., without the Florida arbitrary, is $2.06 per 100 pounds (Rate Basis 684), Agent Spaninger's Florida Tariff 711-B, ICC 519. 46 cents is 22.3 per cent of $2.06. In a much older case, ICC Docket 10672, decided June 23, 1921, reported 62 ICC 405, the Interstate Commerce Commission found that the rates on blackstrap molasses, in tank-carloads, from Savannah, Ga., Mobile, Ala., and New Orleans, La., to Knoxville, Tenn., [fol. 977] were unreasonable for the past and would be for the future to the extent they exceeded 25 cents per 100 pounds prior to August 26, 1920, and 31½ cents per 100 pounds thereafter. The 31½ cents rate would be subject to the 10 per cent reduction of July 1, 1922, in Docket 13293 and to the 10 per cent increase under Ex Parte 123, which would bring the rate to the level of 31 cents as of June 30, 1946. Such a rate would represent 16.1 per cent of the first class rate from New Orleans, 17.6 per cent from Mobile, Ala., and 19 per cent from Savannah, Ga.

There is a very large movement of phosphate rock between points in Florida which may be divided into three groups or kinds of movement. One is from the mine or washer to the drying plant, a very short haul movement under transit rates. There is a very large movement from the drying plants to the Florida ports for movement by vessel beyond in export or coastwise service and that movement is interstate in character. There is also a considerable movement of the dry phosphate rock from the drying plants and to some extent a movement of wet phosphate rock direct from the mines or the washers to Florida points for local use at those points.

The Florida Commission, by its Order 1156 of September 28, 1933, prescribed a scale of rates on phosphate rock, other than ground, and on pages L-2, L-3 and L-4 of Section L of my exhibit, I have shown that scale, as basic rates (i.e., as prescribed by the Florida Commission in 1933, and increased under Ex Parte 123), also as increased under Florida Com-

mission's Orders 1443 and 1466(C), corresponding to Ex Parte 162 and 166; also as sought in this proceeding. Compared therewith is shown 75 per cent of the ICC Docket 16295 scale on fertilizer and fertilizer materials as increased 10 per cent under Ex Parte 123, and with the interstate increases under Ex Parte 162 and 166. The Interstate Commerce Commission has, in several instances, prescribed as maximum basic rates on phosphate rock from Florida to interstate destinations in the South rates made 75 per cent of the original Docket 16295 scale as increased 10 per cent [fol. 978] under Ex Parte 123. The latest decision is that in ICC Docket 29451, reported at 269 ICC 611. As result of this last mentioned decision, the rates on phosphate rock from Florida points to interstate destinations in the South have been revised to the so-called 75 per cent basis, except where water competition has compelled retention of rates lower than that basis to southern ports.

It will be noted that the sought rates on phosphate rock under the intrastate scale, in Florida, are lower than the interstate basis for distances through 139 miles, but for distances above that are usually higher than the interstate basis. Where there are movements of phosphate rock in Florida for distances above 139 miles specific commodity rates have been published which do not exceed the interstate basis. For example, there is a substantial movement of phosphate rock to Cottondale and Pensacola, Fla. The basic rate published to these points is $3.30 per gross ton, whereas rates made 75 per cent of the Docket 16295 scale as increased 10 per cent under Ex Parte 123 would produce $3.93 per gross ton to Cottondale and $4.62 per gross ton to Pensacola.

It should be understood that the scale of rates shown on pages L-2, L-3 and L-4 will not apply on the movement of wet phosphate rock from the washer or the mines to the drying plant, except in the event the equivalent amount of dry rock is not shipped from the drying plant by the inbound rail carriers. It should also be understood that these rates are not applicable on ground phosphate rock, for which the Florida Commission in its Order 1156 prescribed a higher scale of rates for distances 75 miles and under, but for distances above 75 miles the prescribed scale on ground phosphate rock is the same as shown on pages L-2, L-3 and L-4.

On pages L-5 and L-6 there are shown specific commodity rates published on phosphate rock, other than ground, carload, to Jacksonville, Fla., and East Tampa, Fla., compared with the present interstate level and also as compared with the Florida mileage scale rates as shown on pages L-2, L-3 and L-4. Attention is called to the fact that the rate of $2.88 per gross ton as shown to Jacksonville is both the present [fol. 979] rate and the sought rate. The rate to Jacksonville was published first as a truck competitive rate subject to an expiration date. When the expiration dates were about to take effect the rates were republished, but with the same increases as had been obtained on interstate traffic.

On pages L-7 and L-8, I have shown the net transit rates on wet phosphate rock from the washers or mines to the drying plants, with comparison of the revenue obtained under such rates with those obtained for cross-town switching or for the transit privilege in connection with the transit rates on certain other commodities.

The net transit rates have both interstate and intrastate application, dependent upon whether the outbound product of the dry rock is shipped in interstate commerce or is itself intrastate. The amount of dry rock which is reshipped in intrastate traffic is of considerable volume, though the percentage as compared with that shipped in interstate traffic is very small.

The transit rate in effect many years before the Ex Parte 123 increase was 10 cents per gross ton, and that became 11 cents under Ex Parte 123. Under Ex Parte 162 this transit rate was increased 20 per cent becoming on interstate traffic 13 cents with the disposition of fraction, but in Florida Commission's Order 1443 no increase was authorized on Florida intrastate traffic on wet phosphate rock moving to the drying plants and, therefore, the rate remained 11 cents per gross ton on Florida intrastate traffic until changed by later decision in order 1466 (C), corresponding to the Ex Parte 166 revision. Under Ex Parte 166 the interstate transit rate was increased 25 per cent, becoming 16 cents per gross ton with disposition of fraction. The Florida Commission in its Order 1466 (C) authorized 20 per cent, as an emergency charge, under which the

intrastate net transit rate has now become 13.2 cents per gross ton.

It will be noted from the first tabulation on page L-7 that the net transit rates result in an average revenue per car handled of only $6.48 on intrastate traffic and $7.86 on interstate traffic. This is lower than the charge for the transit [fol. 980] privilege which is made for stopping carload freight for partial unloading or to complete loading, which is $10.83 per car. On a large number of other commodities where transit privileges are given, the through rates from first origin through the transit point to final destination are applied plus the transit charge. At the bottom of page L-7 and at top of page L-8, I have shown what the transit charge alone, under four such transit privileges, would amount to per minimum car, these transit charges ranging from $10.00 to $37.91. At the lower half of page L-8, I have shown the present cross-town switching charges at points in Florida. Particular attention is called to the charge of $11.88 per car on intrastate traffic or $12.38 per car on interstate traffic for intraterminal switching. Intraterminal switching is the handling of cars in switch service from one siding in a city, town or switching area to another siding in the same city, town or switching area. Incidentally, the same charge is made for intraplant switching as for intraterminal switching.

I will show later on that the failure to obtain the full increases in connection with the intrastate movement of wet phosphate rock to the drying plant has not only caused loss in revenue, but has directly affected the ability of roads having interstate routes between Florida points to compete for the handling of such traffic with roads having intrastate routes.

The movement of tin cans within Florida is quite large. It is seen from pages B-3, B-24, B-37, and B-41 of Section B of this exhibit that for the four weeks test period the Coast Line terminated 505 cars of tins cans, the Florida East Coast terminated 20 cars, the L&N terminated 2 cars and the Seaboard terminated 254 cars, all in intrastate movement.

In ICC Docket 22426, reported 191 ICC 761, the Commission found to be reasonable for application within southern

territory alternate rates and minimum weights of 55 per cent of first class at minimum weight of 14,000 pounds, 50 per cent of first class at minimum weight of 20,000 pounds and 40 per cent of first class at minimum weight of 30,000 pounds, the [fol. 981] minimum weights in each case being subject to Rule 34 of the Classification. Subsequently, southern roads voluntarily established general basis of Class 50-M, which represents 50 per cent of first class as of March 27, 1938, and is approximately 45 per cent of the present first class rates as governed by exceptions rating, subject to minimum weight of 14,000 pounds, to alternate with 40 per cent of first class at 30,000 pounds minimum. These ratings are applicable within Florida as well as interstate throughout southern territory, and, except where specific commodity rates have been published, the exceptions ratings and rates are applicable in Florida.

There is very keen truck competition, largely from privately owned trucks of the canners, in the movement of tin cans within Florida. Specific commodity rates designed to meet that truck competition have been established from Orlando, Fla., and from Tampa, Fla., to most of the canning plants. Section M of my exhibit shows these specific commodity rates, at the basic level, the present level and at the level sought by these proceedings. It also shows the first class rate for use in connection with exceptions rating, with no Florida arbitrary included, and the percentage which the commodity rates bear to such first class rates. All of these commodity rates are subject to minimum weight of 14,000 pounds. It will be noted that in all instances the commodity rates are less than 50 per cent of first class, and in all except one instance are less than 45 per cent of first class.

The general basis for rates on plaster and gypsum lath, carloads, within the South, is 17½ per cent of first class under exceptions rating in Item 9825½ of Note B, Agent R. E. Boyle, Jr.'s Exceptions 25 to Southern Classification, ICC 105. The rating generally applicable on plasterboard within the South is 22½ per cent of first class under exceptions rating published in Item 9828 of the tariff just mentioned. There are few, if any, commodity rates published on plaster, gypsum lath, or wallboard for interstate appli-

cation in southern territory, most all of the interstate traffic moving on class rates under exceptions ratings. [fol. 982] The same exceptions ratings are applicable within Florida, and except to points shown on pages N-2 and N-3 of Section N of my exhibit, the movement within Florida is at the class rates as governed by those exceptions ratings. The situation with respect to the present rates on plaster, gypsum lath and plasterboard, intrastate in Florida, is, therefore, the same as has been explained in connection with the class rate adjustment for commodities rated lower than 7th class under the modified Docket 13494 adjustment of rates, other than to points to which specific commodity rates have been published. On pages N-2 and N-3 there have been shown the specific commodity rates published from Jacksonville to points in the West Palm Beach-Miami section of Florida, these being the only specific commodity rates published within Florida on these commodities. These pages indicate the present commodity rates, those sought, and the relationship to first class which is found in the commodity rates. It will be noted that in each instance the commodity rates bear a lower relation to first class than 17½ per cent as to plaster and gypsum lath and lower than 22½ per cent as to plasterboard. These specific commodity rates were established to Miami for the specific purpose of meeting all-water competition, and to the other points shown for the purpose of meeting truck or water-truck competition.

The exceptions ratings of Class 17½ on plaster and on gypsum lath, and 22½ on plasterboard were voluntarily established by southern roads. The rating of 17½ per cent on gypsum lath was before the Interstate Commerce Commission in I&S Docket 4635, reported 235 ICC 399, and the Commission there found that rating to be not unlawful. In ICC Docket 28791, decided September 3, 1948, there was involved the question of discrimination against southern shippers of plaster and related articles from southern points to points in southern territory versus from official territory to southern territory. The Commission there required the removal of the discrimination be applying a common level of rates from the Official and southern territories to southern territory, and held that the maximum reasonable level from

[fol. 983] both territories to the South should be Class 17½ on plaster and gypsum lath, and Class 22½ on plasterboard applied to the Docket 13494 K-2 first class scale, as increased by general increases authorized subsequent to the Docket 13494 decision. The rates from the East to the South have now been revised to that basis.

There are a number of other commodities which move in rather large volume between points in Florida, and I have shown illustrations of the Florida rates, compared with the interstate rates, on these commodities in Section O of my exhibit.

Page O-2 of this section shows specific rates which have been published on sulphuric acid, in tank cars, from Florida points to Florida points. These are all of the commodity rates on sulphuric acid which I can find published between Florida points. The basis for most of these commodity rates is the so-called L&N or Fourth Section Committee scale which has been used rather generally as the basis for rates on sulphuric acide between southeastern points for the last 20 years. The rates on page O-2 are shown as for the basic level, the present intrastate rates and those sought. The L&N or Fourth Section Committee scale is then shown, as increased on interstate traffic under Ex Parte 162 and 166. It will be seen that in nearly every instance the sought Florida rate is the same as the L&N scale.

In the last two columns there have been shown for comparison the so-called Copperhill scale on sulphuric acid, in tank cars. The Copperhill scale was the one generally in use throughout the South before the L&N scale was adopted. There are many rates, particularly to the Carolinas, where the Copperhill scale is the underlying basis for the present rates. The Copperhill scale designated under Column A is that scale as changed by the general percentage changes up to Ex Parte 123, then increased 5 per cent under Ex Parte 123, and with the interstate increases under Ex Parte 162 and 166. Where the original Copperhill scale is the under-[fol. 984] lying basis for the present rates, the Copperhill scale as so increased would produce the presently applicable rates except that the Ex Parte 168 increase is now to be added. Under Column B, for the Copperhill scale, there is shown that original scale as changed up to the time

of Ex Parte 123, then increased 10 per cent under Ex Parte 123, and the regular interstate increases under Ex Parte 162 and 166. At the bottom of the page, by reference mark, reference is made to two decisions of the Interstate Commerce Commission which prescribed the Copperhill scale on sulphuric acid, in carloads, from Copperhill, Tenn., to various southern points. There is also indicated in the explanation of the reference mark that the Interstate Commerce Commission has consistently declined to award reparation, on special docket applications, to a lower level than the Copperhill scale as indicated under Column B.

On page O-3 there is shown, for representative distances, the rates applicable on asphalt, carloads, between points in north Florida compared with the interstate level. Asphalt moves within the South on Class 17½, except in a relatively few instances truck competitive rates have been established for short distances. The Interstate Commerce Commission found 17½ per cent of first class rates to be reasonable on asphalt, carloads, within southern territory in I&S Docket 3613, reported 191 ICC 659. While the rates here shown are applicable between north Florida points only, the situation with respect to the rates between south Florida points, or between north Florida and south Florida points, is identical with that already explained in connection with the class rates which apply when exceptions ratings are used.

Page O-4 shows for representative distances and for application between north Florida points, as compared with interstate rates applicable north of the Florida peninsula, the situation with respect to fibreboard, pulpboard or strawboard boxes, knocked down flat, or folded flat. These are the [fol. 985] Class 27½ rates. The rate situation as to paper boxes, carloads, within Florida is identical with that explained for class rates lower than 7th class which are governed by exceptions to the Classification.

The general level of rates on paper boxes within southern territory is 27½ per cent of first class under exceptions rating. There are some, but not a great many, truck competitive rates, which have been published within the South lower than on that basis. Also, by reason of having published rates from southern producing points on paper boxes to Ohio River crossings and Virginia cities on basis of the

Official territory level, which is Class 27½ applied to the Appendix E Docket 15879 first class scale, and observing such rates as maxima at intermediate destinations, there are some rates from southern producing points to destinations in Virginia, North Carolina, Kentucky and upper Tennessee which are less than 27½ per cent of first class, the degree of variance therefrom depending upon how near the destination is to the Ohio River crossings or the Virginia cities. All in all, however, the Class 27½ basis, under exceptions rating, is generally applicable on interstate traffic between points in the states of South Carolina, Georgia, Alabama and Mississippi.

Prior to about 1940, the general level on paper boxes, carloads, within the South was 30 per cent of first class, it having been reduced to Class 27½ as a truck competitive measure. 30 per cent was adopted when there was a general revision on paper and paper articles within the South, because of what is said at page 443 of the decision in Docket 15055, reported 104 ICC 442, as follows:

> "Specific commodity rates on paper boxes were prescribed from the Ohio River to the Mississippi Valley in *Rates to, from, and between points south of Ohio River,* 64 ICC 306, which are 30 per cent of the corresponding first class rates."

Page O-5 shows for representative distances the rates applicable on common brick, carloads, in north Florida and in south Florida, compared with the interstate scale applicable north of the Florida peninsula. In I&S Docket 1885, reported 88 ICC 543, the Commission prescribed a scale of [fol. 986] maximum reasonable rates for application within the South. Thereunder the rates on common brick were made 80 per cent of the rates prescribed on face brick and other articles in the uniform brick description, for distances 180 miles and under. Later, southern roads voluntarily extended the 80 per cent basis on common brick for all distances. About 1938 or 1939, reductions were voluntarily made in the I&S Docket 1885 scale for the purpose of meeting truck competition. For example, the I&S Docket 1885 scale on common brick, as reflecting the increase of 10 per cent under Ex Parte 123, would be for 100 miles 7 cents, 220 miles 9½ cents and 420 miles 14½ cents. The basic

rates between north Florida points for the same distances are, respectively, 6½ cents, 9 cents and 13 cents.

Page O-6 shows, for representative distances, present rates on insecticides, agricultural or horticultural, carloads, between points in Florida and the percentage relationship of such rates to first class. Agricultural or horticultural insecticides, carloads, are rated Class L in Florida Classification 11, Agent R. E. Boyle, Jr.'s ICC 79. The level generally applicable within the South today, except Florida intrastate, is 26 per cent of first class, at minimum weight of 40,000 pounds, 30 per cent of first class at minimum weight of 30,000 pounds. In ICC Docket 18519, 129 ICC 318, rating of 6th class which is 40 per cent of first class was approved on dry insecticides, carloads, from Jacksonville, Fla., to certain points in Georgia. In I&S Docket 4336, 225 ICC 97, the Interstate Commerce Commission approved 40 per cent of first class on insecticides, carloads, within the southwest, from the southwest and Official territory to WTL territory and between southwestern territory and southern or Official territory. It will be noted from page O-6 that the present rates within Florida are less than 20 per cent of first class under the modified Docket 13494 scale of class rates.

Pages O-7 and O-8 show specific commodity rates which are published on lime between Florida points. The general basis for rates on lime within Florida is a single line [fol. 987] mileage scale subject to minimum weight of 24,000 pounds. That scale is published in Coast Line's Florida Local Tariff, ICC B-3170, and the corresponding tariff of the Seaboard. Many of the specific commodity rates shown on pages O-7 and O-8 are exactly the same as the commodity mileage scale. This is true for the rates shown on page O-7 at lines 1, 4, 5, 7, 10, 12, 14, 17, 18, 20, 35 and 37, and those shown on page O-8 at lines 1, 2 and 3. The publication of the specific commodity rates the same as the mileage commodity scale is solely for the purpose of permitting one of the roads having a longer single line distance to meet the rates of the road having the shorter single line distance, or to permit joint line application by two roads to meet the single haul scale rate of another road.

On pages O-7 and O-8 the present rates are shown as basic

rates, the present intrastate rates and those sought. There is also shown on pages O-7 and O-8 the interstate scale on lime at minimum weight of 30,000 pounds which is applicable in southern territory north of the Florida peninsula, those rates being shown as basic and as present rates including the full Ex Parte 162 and 166 increases.

In I&S Docket 2874, 129 ICC 635, the Interstate Commerce Commission found to be reasonable a scale of rates on lime for application in southern territory north of the Florida peninsula. The present interstate rates as shown on pages O-7 and O-8 are the same as that scale, plus the general increases authorized since that decision. This interstate scale is not applied for the shortest distance over which carload traffic can move without transfer of lading, as are the class rate scales and numerous commodity scales, but is for application over the shortest tariff or workable route. This interstate scale is higher for joint line hauls than for single line hauls up to 70 miles, but is the same beyond 70 miles for either single line or joint line application. The I&S Docket 2874 interstate scale is subject to alternating rates dependent upon minimum weight, the rates for minimum weight of 50,000 pounds being 80 per cent of those [fol. 988] which are subject to minimum weight of 30,000 pounds. I have here made the comparison only with the interstate rates which are subject to minimum weight of 30,000 pounds, since all of the rates in Florida are subject to minimum weight of 24,000 pounds, except from Jacksonville, Fla., to south Florida points, as indicated on page O-7, they are subject to minimum weight of 30,000 pounds.

In the second decision in the Dann-Gerow case, 210 ICC 107, involving rates on lime from southern interstate producing points to Clearwater and St. Petersburg, Fla., the Commission prescribed the I&S Docket 2874 scale, plus Florida arbitraries made 25 per cent of that scale for the distance south of the Jacksonville-Chattahoochee line of the Seaboard.

It will be seen by comparing either the basic Florida rates or the sought Florida rates with the basic and present interstate rates as shown on pages O-7 and O-8, that sometimes the rates within Florida are higher, other times they are much lower than the interstate rates. For example, at line

14, from Ocala to Fort Lauderdale, the present basic rate is $3.22 per net ton, subject to minimum weight of 24,000 pounds, while under the interstate basic scale it would be $3.63 per net ton subject to minimum weight of 30,000 pounds. The present rate from Ocala to Fort Lauderdale is the same as the Florida mileage scale rate on lime. I have indicated that in the Dann-Gerow case, the Interstate Commerce Commission authorized arbitraries for the south Florida haul of 25 per cent of the interstate scale. Comparing the present intrastate rates with the interstate rates, it will be found that in very few instances are the intrastate rates higher than on the southern interstate scale plus Florida arbitrary of 25 percent. I find only one such, that being at line 8 on page O-7 where the interstate scale plus 25 per cent would result in basic rate of $3.58 per net ton as against the intrastate rate of $3.66 per net ton. As a matter of fact, out of the 55 rates shown on pages O-7 and O-8, in only ten instances are the rates higher than the [fol. 989] southern interstate scale without a south Florida arbitrary.

Page 0-10 shows, for representative distances, the present single line rates on livestock, carloads, within Florida, and in comparison therewith the interstate scale rates (applicable for either single or joint line hauls) on cattle, single deck, or calves, goats, hogs, kids, lambs, sheep, double deck.

The rates on livestock in Florida are the Class N rates, under the old system of class rates prior to the Docket 13494 adjustment, that rating being assigned to livestock in Florida Classification 11, Agent R. E. Boyle, Jr's. ICC 79.

In I & S Docket 4479, 253 ICC 241, the Interstate Commerce Commission prescribed rates on livestock for application throughout southern territory. Thereunder the rates on stocker or feeder livestock were made 90 per cent of the rates on ordinary livestock. Within Florida the Class N rates apply on all classes of livestock.

The intrastate rates shown on page 0-10 are the Class N rates, which apply per car of 20,000 pounds. The equivalent rates per 100 pounds have also been shown so as to afford comparison with the per 100 pounds rates on the southern interstate scale. It will be noted that the rates

sought in Florida under this proceeding, that is, basic rate increased by the full measure of the Ex Parte 162 and 166 increases, are always lower, sometimes materially so, than the interstate rates applicable to ordinary or fat livestock. The rates sought under this proceeding in Florida are sometimes lower, sometimes slightly higher, than the interstate rates on stocker livestock, but an average of the sought intrastate rates, for the distances shown is 36.6 cents per 100 pounds, while the average for the interstate rates on stocker livestock for the same distances is 36.77 cents.

The joint haul rates for livestock, carloads, on Florida intrastate traffic are made on combination, using the single line scale for each factor, less 10 per cent where the move-
[fol. 990] ment is over two lines or less 20 per cent where the movement is over three or more lines. During the test period only four cars of livestock were found moving over two or more lines. At page B-26, it is indicated that there was a movement of three cars of cows from Baldwin to Belleglade-Chosen, Fla. The rate assessed thereon, indicated as present charges, $297.36 for the three cars at weight of 60,000 pounds, is combination of the scale rate of the Seaboard to Jacksonville and that of the Florida East Coast beyond, deducting 10 per cent from each factor, with increases as authorized up to the present time by the Florida Commission. The charges shown of $297.36 figure out at rate of 49.56 cents per 100 pounds, and under the sought basis for charges of $309.75 would figure out at 51.625 cents per 100 pounds. The southern interstate scale for the short line distance of 305 miles is 49 cents through Ex Parte 166. Of course, presently, on interstate traffic the Ex Parte 168 increase of 6 per cent is applicable and, therefore, the present interstate rate is actually 51.94 cents per 100 pounds. The other joint line movement during the test period is shown on page B-37 of my exhibit, one carload of cattle from Cocoa-Rockledge to Chipley, Fla. The rate assessed is higher than under the southern interstate scale, but had the car been shipped via the available interstate route, which is via Florida East Coast to Jacksonville, Coast Line to Chattahoochee, Fla., L & N RR beyond, the lower interstate rate would have applied.

There has been pending before the Florida Commission since 1945 the application of Florida rail carriers for au-

thority to cancel Florida Classification No. 11, FR & PUC Docket 1497. The rail carriers' application sought authority to cancel the Class N rating and apply in lieu thereof the southern interstate scale, that which was prescribed by the Interstate Commerce Commission in I & S Docket 4779.

[fol. 591] Q. Does that conclude what you have to say with respect to the rate adjustments on the commodities which constitute the bulk of Florida intrastate traffic?

A. It does, but there are some other commodities which move in volume in intrastate Florida traffic, with which I have not dealt, and which will be covered by subsequent witnesses.

Q. Do you know of instances where there is competition between interstate routes and intrastate routes on traffic moving between Florida points?

A. There are quite a number of interstate routes which attempt to compete with Florida intrastate routes in the handling of traffic between Florida points. Between Chattahoochee, Fla., and points south or west thereof on the one hand and points east thereof which are reached by roads other than the Seaboard, there are interstate routes which are competitive with the intrastate routes formed by the Seaboard and its intrastate connections. For example, from all points on the L & N in Florida to points which the Seaboard can reach in connection with its own line or another road, there are intrastate routes, while in connection with the Coast Line the traffic must be handled through Georgia. Between points on the A & St AB Railway, and points in Florida east of Chattahoochee there is the intrastate route of the A & St AB Railway to Cottondale, Fla., L & N to Chattahoochee, Fla., and Seaboard or Seaboard and connections east of Chattahoochee, while the Coast Line's route in connection with the A & St AB is through Dothan, Ala., thence through Georgia to Florida. Similarly, between points on the Apalachicola Northern Railroad or points on the Marianna and Blountstown Railroad on the one hand and points on the Coast Line or the Florida East Coast Railway on the other hand, the Coast Line's route is through Georgia, while the Seaboard has an intrastate route except in some instances to or from local stations on the Coast Line. There are interstate

routes which compete with intrastate routes between points reached by the South Georgia Railway or Georgia and Florida Railroad on the one hand and practically all points [fol. 992] in Florida on the other hand. Also, the GS & F has routes through Georgia between certain points in Florida.

Q. Do you have some illustrations of this situation?

A. I have, in Section P of my exhibit. On pages P-3 and P-4 there are shown rates for representative classes between Jacksonville, Orlando, Tampa and Miami, Fla., on the one hand, and Pensacola, Panama City, Chattahoochee, and Port St. Joe, Fla., on the other hand. It will be seen that the intrastate rates are always lower than the interstate rates as increased under Ex Parte 162 and 166.

At page P-5 there is a sketch map illustrating the interstate and intrastate routes between the points used on pages P-3 and P-4.

I would say here that because of the loss of traffic from the Coast Line's interstate route to the intrastate route by reason of the disparity between the interstate and intrastate rates, that recently the Coast Line has made the intrastate rates applicable over its interstate route, where the differences in the interstate rates and the intrastate rates are solely those growing out of failure to obtain within Florida the full interstate increases, including the Ex Parte 168 increases. The showing of the differences between the interstate and intrastate rates run therefore to the period before the Coast Line and its connections met, via the interstate route, the intrastate rates. Of course, it is not intended to maintain the interstate rates between Florida point at the lower level when we have obtained from the Interstate Commerce Commission the relief sought in this proceeding.

There is a large movement of pulpwood from points on the Coast Line in Florida to Panama City and Port St. Joe, Fla., the normal route of the Coast Line being interstate through Georgia and Alabama to Dothan, thence A & St AB to Panama City or through Georgia to Chattahoochee thence Apalachicola Northern Railroad to Port St. Joe. Until we met within the past two or three months the intrastate rates to Panama City, we noticed a disturbing diversion of the movement of pulpwood to that point,

so as to be for our short haul to a nearby junction with the Seaboard, thence Seaboard to Chattahoochee, L & N to Cottondale, A & St AB beyond.

[fol. 993] On page P-7, I showed for the two months of December, 1948 and January, 1949, we handled 110 cars of pulpwood from our Florida points, destined to Panama City, so as to move via our short haul junction instead of via Dothan. It would probably be well to state here that prior to the increase of 25 per cent under Ex Parte 166, the rates on pulpwood from Coast Line origins to Panama City through Dothan were lower than the intrastate rates. I have also shown on page P-7, the revenue received via the short haul junction and that which would have been received had the traffic been handled via Dothan, using an average load per car of 14 cords. The use of that loading is somewhat of an understatement as the average loading will be somewhere between 14 and 15 cords. At the bottom of page P-7 I have shown that on these 110 cars our revenue via the short haul junction over which the traffic moved was $2,308.92, whereas had the traffic moved the interstate route, and which is only recognized route, the revenue thereon would have been $9,055.90. This shows a loss of revenue to the Coast Line of $6,746.98, which we should have obtained for that two months.

During the two months of December, 1948 and January, 1949, not all of the pulpwood going from Coast Line origins to Panama City moved via the intrastate route, where the charges via the intrastate route would have been lower than via the interstate route. On page P-9 I have indicated the movement for those two months, amounting to 221 cars, which moved both via our short haul junction and those which moved via Dothan where the intrastate rate via the short haul junction would have been less than via Dothan. I have also indicated the intrastate rates which, effective as of June 6, 1949, we established for application via the interstate route so as to be in position to handle the traffic via our long haul junction. In the last column on page P-9 there is shown revenue loss, based on an average of 14 cords per car, which would have been sustained as against the fully increased interstate rate had this movement of 221 cars taken place subsequent to June 6, 1949. That revenue loss to the Coast Line and A & St AB would total

$1500.10. On all the pulpwood moving from these particular origins, also from many other origins on the Coast Line [fol. 994] in south Florida, the Coast Line and A & StAB will continue to sustain revenue loss by reason of the unduly low intrastate rates, which they have had to meet in order for each of those roads to obtain its long haul, until the full increases are applied against the intrastate rates. On page P-10 there is a sketch map illustrating the interstate versus intrastate routes from the origins shown on page P-9 to Panama City. The interstate routes of the Coast Line from these Florida points to Panama City is not unduly circuitous and from some of the origins the interstate route is of less distance than is the intrastate route. On page P-7 it will be noted at line 6 that there was a movement from Dover, Fla., via Plant City. Via the intrastate route of movement the distance is 451 miles, while the short distance via the Coast Line to Dothan is only 435 miles. At line 1 on page P-7 it is noted that there was a movement of pulpwood from Altamonte Springs via Tavares to Panama City. Via that route, the distance is 448 miles while via the route of the Coast Line through Jacksonville and Dothan the distance is 490 miles which is only 9.4 per cent circuitous. The distances are those published in Agent C. A. Spaninger's Freight Distance Table, ICC No. 1054.

On page P-12 there is shown the movement of pulpwood from Coast Line stations in Florida to Port St. Joe, Fla., during December, 1948 and January, 1949. This amounted to 161 cars. In most of the instances shown the interstate rate was higher than the intrastate rates. Charges on basis of using for each car the minimum weight of ten units of 168 cu. ft. are shown under the intrastate rate and the interstate rate. There would have been a difference in the charges intrastate under interstate, on these 161 cars, of $107.90. I have also shown on page P-12 the revenue which would accrue to the Apalachicola Northern Railroad under the intrastate movement and the interstate movement. The Apalachicola Northern's proportion is its published rate from Chattahoochee to Port St. Joe as explained in the note [fol. 995] at the bottom of page P-12. It will be seen, at line 19, that while the difference in freight charges interstate over intrastate on the 161 cars is $107.90, the proportion ac-

eruing to the Apalachicola Northern Railroad thereon if the movement be interstate, is $698.74 higher than if the movement be intrastate. The pulpwood from our Florida points to Port St. Joe was not diverted to the intrastate route. On page P-13 there is a sketch map showing the interstate versus the intrastate routes to Port St. Joe from the origins named on page P-12.

On page P-14 there are shown the rates on phosphate rock from south Florida points to Cottondale and Pensacola, Fla., intrastate and interstate. There are also shown the distances via the intrastate routes and the interstate routes. I call particular attention to the fact that there are interstate routes which are less distant than the intrastate route. Effective May 9, 1949, the present intrastate rate was published to apply via the interstate routes. However, there is another feature in connection with the movement of phosphate rock which affects the ability of the interstate routes to participate in the movement, that being the lower net transit rate applicable on intrastate traffic than on interstate traffic. Even while the increases under Ex Parte 162 and 166 were the same on phosphate rock moving from the south Florida points, the Coast Line did not handle any part of the movement to Cottondale and Pensacola because, as is shown at page L-7 of my exhibit, the net transit rate into the drying plant on wholly intrastate traffic is 13.2 cents while on interstate traffic it is 16 cents per ton of 2,240 pounds.

On pages P-16 and P-17 there are shown the intrastate rates and the interstate rates on lumber and related articles from representative south Florida points to representative west Florida points. The interstate rates shown are not on the general level applicable elsewhere in the South, but are the basic Florida intrastate rates, as increased for intrastate and interstate movements, which we were authorized to maintain under appropriate 4th Section relief. [fol. 996] As explained in connection with Section E of my exhibit, the interstate rates on lumber and related articles north of Florida are much higher than the Florida intrastate rates. On page P-19, there is a comparison of the movement of lumber from points in Florida west or south of Chattahoochee to points in east or south Florida as obtained

from Coast Line passing reports and which moved via interstate routes in connection with the Coast Line, for the years 1946 and 1948. During 1946 the rates applicable via the interstate routes were the same as via the intrastate routes. It will be noted that in 1948, when the interstate rates were higher than intrastate, at least for the greater part of the year, the movement was less than half of what it was in 1946.

On page P-20 I have shown intrastate rates and interstate rates on citrus pomace from representative south Florida producing points to points on the L & N in west Florida. In connection with Section J of this exhibit I have explained that the intrastate Florida rates on citrus pomace are materially lower than the interstate level from Florida to points north of Florida, or between points in the South north of Florida. On citrus pomace, as on lumber, we did publish the Florida intrastate rates for application via the interstate routes, under appropriate 4th Section authority. That was on the rate level as of June 30, 1946, and page P-20 will show how the lesser increases on Florida intrastate traffic than on interstate traffic have affected the parity of the rates.

[fol. 997] Q. In your opinion, will the increases in rates and charges sought by this proceeding result in increased revenues for the Florida carriers?

A. That is my opinion.

Q. Do you have any means of testing the probability of the correctness of your opinion in that respect?

A. I think I do have. In Section R of my exhibit, I have analyzed the movement via the Coast Line, for the system, of all commodities as a group, and for three commodities separately which moved in large volume throughout southern territory for the years 1946, 1947 and 1948, and have compared the 1947 movement and revenues with 1946 and the 1948 movement and revenues with 1947. Also, I have made comparison of the Coast Line's tonnage and revenues for the first three months of 1949 as compared with the first three months of 1948 for several commodities and for all commodities grouped together.

For the first six months of 1946 the freight rates and charges were on what is now known as the basic or 100 per

cent level. Effective July 1, 1946, the Ex Parte 148 increases were restored on interstate traffic, and those increases were restored on that same date or later on in 1946 on intrastate traffic. Effective January 1, 1947, the interstate rates were increased under Ex Parte 162, and at various dates throughout that year those increases became effective, with some exceptions, on intrastate traffic. The interim increases under Ex Parte 166 became effective on interstate traffic at various times between October 13, 1947 through May 6, 1948, and the final Ex Parte 166 increases, very slightly different from the third interim increase thereunder, became effective August 21, 1948. The Ex Parte 162-166 increases did not become effective on intrastate traffic on the same date as on interstate traffic, except that in North Carolina the same effective date was observed as [fol. 998] to the Ex Parte 162 and the first interim Ex Parte 166 increase. In all the states very important traffic was excepted from the increases entirely, or lower increases were granted than on interstate traffic. In Alabama no increases have, as yet, been obtained either under Ex Parte 162 or 166.

I have attempted to show on pages R-2 through R-6 a rate index beginning with 100 for January, 1946. By reason of the maximum increases on some commodities for interstate traffic, and the varying dates on which the increases became effective on intrastate traffic as well as by reason of the various exceptions made by the state commissions in authorizing increases, it would be impossible to indicate exactly the rate levels since January, 1946 by a percentage of the rate level as in effect in January, 1946. I have, therefore, shown the rate indices by taking the greatest increases authorized in rates in southern territory on interstate traffic and as of the date such interstate rates became effective. On this basis it will be seen that, for example, at lines 19 through 21 on page R-2, the rate level in November and December, 1946 was 106, for the same months in 1947 it was 132, and for the same months in 1948 it was 150.

On page R-2 I have shown for all revenue freight handled by the Coast Line the tons and revenues for the years 1946, 1947 and 1948 divided into groups of months which would most readily permit comparison of the rate levels during

those months in the several years, and at the bottom of that page have shown the figures for the entire year. I would call attention to lines 22, 23, and 24 on page R-2 where it is indicated that for the year 1947 the rate index ranged from 120 to 132, as compared with rate index 100 to 106 during the year 1946. The Coast Line handled 2/10 of 1 per cent less tonnage in 1947 than in 1946, but the revenue it received from the 1947 tonnage was 9.58 per cent greater than for 1946. For the year 1948, the rate index ranged from 132 to 150, and the revenue handled in 1948 was 57/100 of 1 per cent less than in 1946 and 37/100 of 1 per cent less than in 1947, but the revenue received in 1948 was [fol. 999] 21.3 per cent greater than for 1946 and 10.72 per cent greater than for 1947.

On page R-3 I have shown similar figures to those on page R-2 except those on page R-3 relate to the tonnage and revenue on road aggregates, carload, only. While I have shown on line 24 on this page that the tonnage dropped in 1948 under that in 1946 or 1947, the revenue increased.

On page R-4 I have made a similar comparison for the movement of fertilizer and fertilizer materials, carloads, except that it has not been possible to show the year 1946 tonnage and revenues on this commodity. That is because effective January 1, 1947, the classification grouping for superphosphate was changed from the fertilizer and fertilizer material group to the phosphate rock group. There is a very large movement of superphosphate, and it would not be a true comparison to use the reported figure for the year 1946 on fertilizer and fertilizer material, which includes superphosphate when the figures for fertilizer and fertilizer materials for the years 1947 and 1948 exclude superphosphate. At line 16 of page R-4 it is shown that for the year 1948 as compared with 1947 the fertilizer tonnage decreased, but the revenue showed a slight increase.

On page R-5 I have shown similar figures for lumber and articles usually taking the lumber rates for all of the three years of 1946, 1947 and 1948. Included in this group of commodities are all of the commodities which are grouped in Accounting Classification Group 403, which consists principally of posts, poles and piling; Group 411, which consists principally of lumber, shingles and lath; Group 413, which consists principally of box, crate and

cooperage material; and Group 415, which consists principally of veneer and plywood or built-up wood. I call attention to lines 22, 23, and 24, on page R-5, from which it is seen that for the year 1948, when the rate index ranged from 132 to 150, there was a decrease in tonnage, but a material increase in revenue.

[fol. 1000] On page R-6 comparison is made of the tonnage handled and revenue received by the Coast Line from the handling of that tonnage for the first three months of the year 1949 as compared with the first three months of the year 1948. It will be noted that on road aggregates there was a material increase in tonnage and revenue. On lumber there was a material decrease in tonnage but an increase in revenue. On fertilizers and fertilizer material there was an increase in tonnage and a material increase in revenues. On superphosphate, for which the Coast Line has kept for its own purpose separate record since August, 1947, there was material increase in both tonnage and revenue. On fertilizers, including superphosphate, there was an increase in tonnage and a material increase in revenue. On both bituminous coal and phosphate rock there was a severe reduction in tonnage and revenues. So far as the Coast Line is concerned, there is no truck competition on either bituminous coal or phosphate rock, so that the large reduction in tonnage and revenues on those two commodities cannot be attributed to diversion to trucks. On all commodities except bituminous coal and phosphate rock there was a reduction for the three months of 1949 as against 1948 of 2.24 per cent in tonnage, but only 48/100 of 1 per cent in revenue.

It is inescapable that had we obtained the full measure of the interstate increases on intrastate movements the showing as to revenue increases in Section R of my exhibit would have been greatly improved.

[fol. 1001] RESPONDENT'S EXHIBIT 13

Testimony of W. W. Wolford in I. C. C. Docket 30140 Hearing, Daytona Beach, Fla., June 28, 1949

(Qualifying questions and answers)

Q. Proceed with your prepared testimony.

A. The Seaboard Air Line Railroad operates in Virginia, North Carolina, South Carolina, Georgia, Florida and Alabama. About 38% of its mileage is in the state of Florida. Approximately 7% of its system freight revenue is derived from Florida intrastate traffic. A much larger percentage of its freight revenue is derived from transportation of interstate traffic to and from points in Florida. The estimated losses in revenue by the Seaboard Railroad resulting from the failure of the Florida Railroad and Public Utilities Commission to authorize the same increases on Florida intrastate traffic as the Interstate Commerce Commission granted on interstate traffic under its decision in Ex Parte 162 and 166 have been shown in an exhibit already placed in the record by a prior witness, Mr. C. L. Hinnant.

Q. What is your opinion as to whether the increases sought would produce additional revenue for the Seaboard?

A. It is my opinion that the increases sought would produce additional revenue. In support of that opinion, I have prepared, and now offer for identification, Exhibit No. 14, consisting of one page. This exhibit is captioned "Seaboard Air Line Railroad System Freight Revenues for the Months shown." The exhibit shows the Seaboard's freight revenue for the first five months of 1946, for comparison with the same months of 1947 and 1948. This 5-month period in 1946 was prior to either the Ex Parte 162 or Ex Parte 166 increases on interstate or intrastate traffic. The same 5-month period in 1947 is after the Ex Parte 162 increase [fol. 1002] went into effect January 1, 1947. That increase was 20%, subject to certain maximum increases in the rates on numerous commodities. On certain commodities, such as coal, specific increases in the rates were prescribed, which were much less than 20%. The overall effect of these increases as prescribed on Seaboard's traffic was estimated by the Seaboard to produce an overall average of about 17.5% on interstate traffic. The various State Commissions did not authorize these same increases in full on all traffic in any state in which Seaboard operates, and there was an additional time lag after January 1, 1947 before any of the states in which Seaboard operates (except North Carolina), granted such increases as each did grant. The effect of the failure of the State Commissions to grant the increases

promptly and in full was to bring down the average percentage of increase obtained during this period (first 5 months of 1947) to a still lower percentage. It is not possible to estimate the effect accurately, but it must have had the effect of bringing it down to around 16.5%. The final column opposite the year 1947 shows that Seaboard's revenues, this period in 1947 over the same period in 1946, increased 16.4%. The increase granted in Ex Parte 162 on interstate traffic did therefore have the effect of producing additional revenues on interstate traffic, and I am of the opinion that had the Florida Commission authorized the full Ex Parte 162 increases on Florida intrastate traffic, substantial additional revenue proportionate to the increase, would have been produced.

The final line on the exhibit shows the results under the Ex Parte 166 increase that went into effect January 5, 1948 on interstate traffic. That was also a 20% increase, similar to the Ex Parte 162 increase just described, and on intra- [fol. 1003] state traffic there followed even more pronounced time lags, and failures to grant the full increases on all commodities.

There also occurred between these two periods the reduction of approximately 10% in the class rates, effective on or about August 21, 1947 under ICC Docket 28300, which had the further effect of offsetting and reducing the amount of the increases in revenue derived from the Ex Parte 166 increase as measured by these two 5-month periods.

Despite these circumstances, which had the effect of reducing the average percentage of the increase received as applied to the traffic handled during this period, the Seaboard's freight revenues for this period in 1948 showed an increase of 13.1% over the same period in 1947.

Of course, if it were possible to separate the interstate traffic and revenues from the intrastate, the percentage of increase shown to be derived on interstate traffic alone would have been much higher than the overall average of 13.1% derived on both.

The increase granted in Ex Parte 166 on interstate traffic did have the effect of producing additional revenues, on interstate traffic, and I am of the opinion that had the Florida Commission authorized the full Ex Parte 166 in-

creases on Florida intrastate traffic substantial additional revenue, proportionate to the increase, would have been produced.

Q. Have you prepared some other exhibits dealing with specific commodities on which the Florida commission did not authorize increases against the intrastate rates equal to those authorized by the Interstate Commission against interstate rates?

A. Yes. I have prepared several exhibits of this kind dealing with various commodities.

[fol. 1004] Pulpwood Within Florida

Most of the pulpwood rates intrastate in Florida reflect the Roanoke Rapids scale, although some reflect one-tenth of Florida intrastate Class P rates. The Roanoke Rapids scale is the scale that is generally in effect throughout the South on interstate traffic.

I offer for identification Exhibit No. 15, consisting of two pages, captioned "Rates Reflecting Roanoke Rapids Scale—160 Cubic Feet Unit"; with a sub-caption showing the origin areas from which, and the pulp and paper mill destinations to which this scale has application.

In Ex Parte 162 the Interstate Commerce Commission authorized on interstate pulpwood traffic an increase of 20%, subject to a maximum of 8 cents per cwt., and in Ex Parte 166. This information is shown under columns 1, 2 of 25% with no maximum attached. This information and the resulting rates are shown in columns 4, 5 and 6 on this exhibit. The Florida Commission authorized a 9% increase under Ex Parte 162 and a 20% increase under Ex Parte 166. This information is shown under colums 1, 2 and 3 of this exhibit. In Ex Parte 166, the pulp and paper mills, through their traffic managers, filed verified statements in opposition to the increases sought by the railroads on pulpwood in that case. I filed a verified statement in rebuttal, dated December 6, 1947, at the Washington hearing held December 8 to 12, 1947. This rebuttal statement placed before the Commission the history of the Roanoke Rapids scale; the low level of those rates; and comparative rate statements having for their purpose the showing of the low level of those rates. In that rebuttal statement, I stated

"* * * the rate level on which pulpwood moves within Southern Territory is about the lowest in existence on any traffic, and approaches the very minimum of reasonable-[fol. 1005] ness." In prescribing the increases that were granted in Ex Parte 166, the Interstate Commission had before it evidence of the reasonableness of the basic rates, and of the reasonableness of such basic rates with the general increases added. In my Exhibit No. 15 in the present case, I have shown in columns 7 to 12, inclusive, still another comparison going to the reasonableness of these interstate rates, and to the reasonableness of the intrastate rates, plus the increases here sought. This comparison is with the pulpwood rates prescribed by the Interstate Commission in the Covington Case, Docket 14358, reported in 96 ICC 244. Note 2 on page 2 of the exhibit describes the application of that scale. By comparing the rates in column 12 on page 1, with the rates in column 6 on page 1, it is seen that the originally prescribed Covington Scale, subjected to the subsequent general increases, produces rates substantially higher than the Florida intrastate rates, with the increases here sought added.

I should point out that the Covington scale was prescribed for joint-line application, whereas it is being compared with the Roanoke Rapids scale for single-line application. However, it will be observed that the Covington joint-line scale produces rates that are higher than full combination of the Roanoke Rapids single-line scale. For example, the Covington Scale rates for a 200-mile haul is 688 cents per cord (see col. 12), whereas the full combination of the Roanoke Rapids scale for 100 miles up to the junction and 100 miles beyond the junction would double the 320-cent rate for 100 miles shown in column 6, or a total of 640 cents. For 300 miles the comparison is 868 cents versus 752 cents. The same thing is true when combinations are made by using one-tenth of Class P up to the junction minus the 10% Florida statutory deduction in [fol. 1006] making combination rates, plus the Roanoke Rapids scale beyond the junction.

I also offer for identification as Exhibit No. 16, another exhibit dealing with pulpwood, captioned "Rates Reflecting Roanoke Rapids Scale—168 Cubic Feet Unit." This ex-

hibit consists of two pages and has application on pulpwood from Seaboard Railroad stations to Fernandina, Fla. It is similar in all respects to the next preceding exhibit and requires no further comment.

I also offer for identification, as Exhibit No. 17, another exhibit dealing with pulpwood, captioned "Rates Reflecting one-tenth of Class P." This exhibit consists of two pages, and has application on pulpwood from ACL and FEC stations to Jacksonville, as shown in the subcaption. Comparison of the rates in columns 4, 5 and 6 with the rates in columns 7, 8 and 9 shows that the intrastate one-tenth of Class P rates, increased as here proposed are higher than the Roanoke Rapids scale rates similarly increased. However, as heretofore pointed out, the Roanoke Rapids scale is a very low scale, much below a level that would represent maximum reasonable rates. The one-tenth of Class P rates subjected to the increases here proposed, are substantially lower than the rates prescribed in the Covington Case, shown in columns 10 to 14, inclusive.

I also offer for identification as Exhibit No. 18, a statement of one page, entitled "Pulpwood Carload—Basic Rates prior to Ex Parte 162 and 166 Increases." This exhibit reproduces the Covington Scale, including the Ex Parte 123 increase. It further shows the pulpwood scale prescribed by the Commission in Docket 14883, reported in 104 ICC 495, for application in Delaware, Maryland, [fol. 1007] Pennsylvania and West Virginia as described in Note 2 on the exhibit, as increased under Ex Parte 123. Lastly it shows the Roanoke Rapids scale increased under Ex Parte 123. This exhibit, like the preceding exhibits, shows that the Covington Scale is far higher than the Roanoke Rapids single-line scale, and as has been heretofore mentioned, is higher than is produced for a joint haul by using full combination of the Roanoke Rapids scale. This exhibit further shows that the pulpwood scale prescribed in 104 ICC 495 for application from points in Delaware, Maryland, Pennsylvania and West Virginia to paper mills in that area, even for *single* line application is generally about as high as the Covington scale for *joint* line application, and of course far higher than the Roanoke Rapids scale.

Cement

My next exhibit offered for identification as Exhibit No. 19 consists of 3 pages and is captioned "Representative Specific Rates on Cement and Related Articles, Carload, from Tampa, Fla."

On cement, the Florida Commission granted the full Ex Parte 162 interstate increases on Florida intrastate traffic. Under Ex Parte 166, the Interstate Commission granted an increase of 25%, maximum 40 cents per ton (see Col. 6), whereas the Florida Commission granted only 20%, maximum 40 cents per ton (see Col. 3). The only cement mill in Florida is located at Tampa.

The relationship of the rates on cement from cement mills outside Florida to points in Florida with the rates from Tampa to Florida points was fixed by the Interstate Commerce Commission in the Fifth Supplemental Report of the Commission in Docket 15806, Southern Cement Rates, 243 ICC 365, decided January 24, 1941. No formal order [fol. 1008] was issued, inasmuch as the Florida Commission elected to permit the rates from Tampa reflecting the prescribed relationship to go into effect without an order. The findings in that case are reproduced as page three of my exhibit.

Following that decision, the rates from Tampa and from interstate shipping points were revised in conformity therewith, and still reflect that revision except that the intrastate rates from Tampa have not been increased under Ex Parte 166 to the same extent as from interstate shipping points, thereby disrupting the prescribed relationship.

Column 3 of pages 1 and 2 of my exhibit show the present intrastate rates from Tampa to base points in Florida. Column 6 shows what those rates should be to restore the relationship.

The reasonableness of the interstate rates is covered by the first paragraph of the findings reproduced on page 3, and needs no further comment.

Phosphatic Sand and Clay

I offer for identification, as Exhibit No. 20, a statement consisting of four pages, the first page being captioned

"Rates on Phosphatic Sand and Clay, Carload, between points in Florida (except Florida Peninsula Points)."

Comparison of column 2 with column 5 shows that the Florida Commission authorized the full Ex Parte 162 increase, that was authorized by the Interstate Commission on interstate traffic, i. e., 20%, subject to a maximum of 30 cents per ton. Comparison of column 3 with column 6 shows that the Florida Commission authorized no increase under Ex Parte 166, whereas the Interstate Commission authorized a 25% increase, subject to a maximum of 60 cents per ton.

[fol. 1009] Columns 7, 8 and 9 show that the Interstate Commerce Commission has just recently decided a case approving a level of interstate rates on these commodities from Florida producing points to destinations in Southern Territory, including destinations in Florida. That case was I&S Docket 5412, decided December 15, 1948. The rates there approved became effective January 7, 1949, as shown by column 7.

Column 4 compared with column 7 shows that the Florida intrastate scale applicable within North Florida is the same as the interstate scale prescribed in I&S 5412 and made effective January 7, 1949, for distances up to 260 miles. Beyond that distance the Florida intrastate scale is one cent higher up to 290 miles, and beyond 290 miles is lower by varying amounts.

Column 6 compared with column 9 shows that when the interstate Ex Parte 162 and 166 increases here proposed are added to the Florida intrastate basic scale the resulting rates will either be the same as or lower than the interstate scale throughout, except for distances 261 to 290 miles, where it would be 2 cents per ton higher. The reasonableness of the North Florida intrastate rates increased as here proposed, as shown in column 6, is amply demonstrated by the interstate rates shown in column 9.

The production of phosphatic sand and clay in Florida is only in the Dunnellon and Bartow areas in the Florida Peninsula, as described in the report in I&S 5412, 273 ICC 373. The rate situation from this actual producing area will be covered by pages 3 and 4 of this same exhibit. These pages will be discussed next. There being no production within North Florida (the area covered by pages 1 and 2)

there probably is no movement, or at least little movement [fol. 1010] on those rates. However, the rate situation within North Florida required this explanation in order to make clear the rate adjustment in both parts of the state.

Pages 3 and 4 deal with the rates within and from the Florida Peninsula. As I have stated, the production of this traffic in Florida is in the Dunnellon and Bartow areas, which areas are located within the Peninsula, so the rate situation shown on pages 3 and 4 is the rate situation applicable to the actual traffic that is moving, as distinguished from the isolated movements, if any, that may occur within the North Florida area.

By comparison of the basic scale shown in column 1 on page 3, applicable within Peninsular Florida and from Peninsular Florida to North Florida, with the column 1 basic scale applicable within North Florida, it will be seen that the former is higher than the latter for distances over 175 miles. The extent of these differences or the amount of the Peninsular arbitrary is shown in column 10 after being subjected to the interstate Ex Parte 162 and 166 increases.

[fol. 1011] Petroleum and Petroleum Products

I offer for identification Exhibit No. 21, consisting of one page, captioned "Rates on Petroleum and Petroleum Products, viz., Gasoline, Kerosene, Fuel Oil, etc., as described in FRR and PUC Docket 1570." The basic rates in Florida, shown in column 1, were prescribed by the Florida Commission in its Docket 1570 of April 6, 1948. Column 2 shows that the Florida Commission authorized the full Ex Parte 162 increase against these basic rates, that increase being 20%, subject to a maximum of 6 cents cwt. Column 3 shows that the Florida Commission authorized an increase of only 20%, maximum 10 cents cwt. under Ex Parte 166, whereas the Interstate Commission authorized 25%, maximum 10 cents cwt. The basic scale with the full Ex Parte 162 and 166 increases as here proposed is shown in column 4. The reasonableness of the Florida scale, so increased, is shown by comparison with the rates in column 6, reflecting the normal rate level prescribed by the Commission for application in Southern Territory in Docket 17000 part 4, with the subsequent general increases added.

(Here follows 1 Paster, side folio 1012)

[fol. 1014] RESPONDENT'S EXHIBIT 29

Direct Testimony of E. C. HICKS, JR., in ICC Docket No. 30140

Q. Will you please state your name, residence and railroad connection?

A. My name is E. C. Hicks, Jr., and I reside at Wilmington, North Carolina, the headquarters of the Atlantic Coast Line Railroad, with which company I hold the position of Assistant Freight Traffic Manager.

Q. How long have you been connected with the Atlantic Coast Line Railroad?

A. Just under twenty five years, although my experience in railroad freight traffic department work is slightly more than thirty years.

Q. With what segment of the rates involved in these proceedings do you propose to deal?

A. I have been delegated by the Florida railroads involved in these proceedings to deal with the net transit rates on sugar cane from producing points around the southern shores of Lake Okeechobee to Clewiston, Fla.

Q. Are you familiar with these rates on sugar cane?

A. I am familiar with these rates on sugar cane, as well as the rate on raw sugar, the product of the cane, from Clewiston, Fla., to Port Wentworth, Ga., where the raw sugar is shipped for refining. Ever since the growing of sugar cane and the production of raw sugar in the southern part of Florida was first begun the railroads have proceeded upon the underlying idea of keeping the producers on a reasonably competitive basis with producers in Cuba and Puerto Rico, their only source of competition.

Q. Will you please review the history of the rates that have been established by the railroads, particularly on the inbound cane, and present in your own way the facts and such supporting data as may be necessary?

[fol. 1015] A. Sugar cane growing and raw sugar production in the Lake Okeechobee area was started during the early 1920's. A sugar mill was constructed at Canal Point and began operation in 1923, or before any railroad was built into the area. Traffic to and from the mill was moved via barge operating on Lake Okeechobee and on canals

leading to the Florida East Coast Railway at West Palm Beach or Fort Lauderdale. The Florida East Coast Railway built into Canal Point early in 1925.

Mr. Dahlberg, who was connected with the Celotex Corporation and interested in a rather substantial way in the production of sugar cane in Louisiana, became interested also in the Florida production and as result the planting of cane along the southern and southeastern shores of Lake Okeechobee increased so rapidly that by 1928 approximately 20,000 acres had been planted to cane.

Along about that time, the Southern Sugar Company was organized and another sugar mill was erected at Clewiston. Somewhat later, because the cane growing area became so greatly extended and because the mill at Clewiston was so enlarged and modernized, the mill at Canal Point was abandoned and all of the manufacturing activities of the Southern Sugar Corporation were concentrated at Clewiston.

In order to serve the Clewiston mill in the transportation of its raw sugar to Port Wentworth, Ga., the Atlantic Coast Line Railroad extended its rails slightly more than 15 miles to Clewiston from what was then the terminus at Moore Haven. Also, to facilitate the movement into Clewiston of cane produced along the Florida East Coast Railway, east of the Miami Canal, the Atlantic Coast Line Railroad extended its rails an additional distance of 10.2 miles [fol. 1016] to Lake Harbor where it made connection with the Florida East Coast Railway, which extended its rails 20½ miles from Canal Point in a southerly and westerly direction to Lake Harbor. The extensions were completed and the interchange at Lake Harbor was effected in 1929.

In the meantime, during the fall of 1928, Mr. Dahlberg, President, and Mr. E. C. Cole, Assistant to President, Southern Sugar Corporation, had arranged conferences with traffic executives of the Atlantic Coast Line and Florida East Coast for the purpose of discussing the adjustment of freight rates on all movements involved in the Sugar Company's complete operations. There was a series of such conferences, the first being held October 2, 1928. At that time, Mr. Cole advised that the conference was of a preliminary nature and handed the railroad representatives a memorandum, accompanied by rate statements, in support

of his request for inbound rates on sugar cane, sugar mill machinery, sugar bags, etc., and outbound rates on raw sugar and blackstrap molasses. The refinery at Port Wentworth, to which it was intended that the raw sugar would be shipped, was then drawing all of its supply from off-shore producers, principally mills in Cuba, and it was explained that the competition to be met by the Sugar Company was the Cuban producers of raw sugar.

At another conference, held in Washintgon, D. C., on December 4, 1928, and attended by Mr. Cole, Assistant to President, Sugar Corporation, Mr. F. W. Kirtland, Freight Traffic Manager, Florida East Coast Railway, and Messrs. C. McD. Davis, Freight Traffic Manager, and R. J. Doss, General Freight Agent, Atlantic Coast Line Railroad, the [fol. 1017] whole situation was explored in considerable detail and an exhaustive study was made of the comparative costs of the Cuban and Clewiston operators in handling their raw sugar from the origin of the cane through the mill to the final destination at Port Wentworth, Mr. Cole comparing the sum of the inbound cane and outbound sugar rates proposed at the previous conferences with the total cost of moving Cuban cane to Cuban mills and raw sugar produced therefrom to Port Wentworth. Since the distances from the cane fields to the mill ranged from one to thirty or more miles, the Sugar Company was faced with two very important problems. One was that of moving the cane to the mill and the other was moving the sugar from the mill to the refinery. Throughout all of the conferences, the primary consideration was to keep the combined costs of these two services on such level as to produce a total transportation cost no greater than that of the competing mills in Cuba, which enjoy the benefit of water transportation of their product.

The discussions of transportation charges on the inbound cane and on the outbound raw sugar were so interwoven at all of the conferences that the two rate adjustments were considered together, the total of the inbound and outbound transportation costs having been the ultimate goal in all of the negotiations. In that respect, the situation today is identical with what it was in 1928. In all of these discussions the rates and service on sugar cane from the fields to the mills were the subject of the greater part of the dis-

cussions. Mr. Cole, having given the railroads copies of the mileage scales of rates on sugar cane applicable in Louisi- [fol. 1018] ana and in Cuba, asked them to establish rates on cane to the Clewiston mill in line with those from Louisiana cane fields to the Louisiana mills, but it developed that Clewiston's real competition would be with Cuban, rather than with Louisiana, producers. Furthermore, the mileage scales applicable in Cuba were lower than in Louisiana. In fact, the Atlantic Coast Line and Florida East Coast advised Mr. Cole that the measure of the Cuban sugar cane scale was so low that they could not afford to operate it over their lines.

One of the provisions of the Cuban cane scale was that percentage deductions would be made from the rates if the shipper should furnish the cars and/or locomotives. In other words, predicated upon the furnishing by the shipper of cars and locomotives, the scale of rates was actually a trackage arrangement, that is, an arrangement to pay for use of the tracks. Mr. Cole proposed that the Sugar Company furnish its own cars and locomotives and that the Atlantic Coast Line and Florida East Coast agree to operate on the inbound cane a trackage arrangement similar to that in Cuba, including application of the Cuban mileage rate scale with the various percentage reductions corresponding with those made in Cuba in consideration of the mill furnishing its own cars, etc. As to the outbound rate on raw sugar from Clewiston to Port Wentworth, he proposed that it be made with relation to the charge for transporting raw sugar from Cuban North Coast ports to Fort Wentworth, saying that adoption of these proposals would place Clewiston sugar at the Port Wentworth refinery for the same transportation charge as paid by Cuban producers.

Mr. Cole had overlooked and failed to include in his compilation various rather substantial items embraced in the [fol. 1019] costs of transporting Cuban cane and raw sugar. These items were pointed out, the figures adjusted accordingly, and his proposed basis was adopted in principle by the railroads.

The mileage scale of trackage rates on sugar cane in Cuba was, and still is, strictly a scale of transit rates, its application being conditioned upon rail movement, from

the mill of the raw sugar produced from the cane handled on such rates. Also it was, and still is, strictly a single line scale. No joint hauls are permitted, and in the event of a joint haul class rates on the inbound cane, as well as on the outbound sugar, become applicable. They were, and still are, from four to six times as high as the transit commodity rates. This Cuban scale applied in cents per two cubic meters which is the equivalent of one metric ton, i. e., 2,204.6 pounds. The distances were stated in kilometers, i. e., 3,280 feet, or slightly less than five-eights of a mile.

The railroads stated that the expenses of the service, train crews, etc., in Florida greatly exceeded the corresponding expenses in Cuba and they were unwilling to apply the same scale if the railroads were to perform all of the services and furnish all of the equipment, but that they would be willing to consider the establishment of a trackage arrangement under which the Sugar Company would furnish power, equipment, crews, and a pilot. The Cuban trackage scale under which such services were furnished by shippers was substantially 60 percent of the Cuban transportation rates. Therefore, the Cuban scale was converted to a net ton and a mileage basis and the single line scale thereupon adopted by the railroads was 15 cents per ton for 5 miles; 18 cents for 10 miles and over 5; 22 cents for 15 [fol. 1020] miles and over 10; 25 cents for 20 miles and over 15, and 28 cents per ton for 30 miles and over 20. These rates were made by taking 60 percent of the Cuban scale and adding thereto 6 cents per ton, which approximated the additional charges made by the Cuban railroads for accessorial services.

The Cuban scale being strictly a single line scale, it was contemplated that, for joint line hauls from Florida East Coast Railway origins to Clewiston, rates for each railroad based on the single line scale just mentioned would be combined and 6 cents per ton would be deducted from the total since it was felt that this amount, approximating the additional charge made by Cuban railroads for accessorial services, should be added only once.

The capacity of the average car used in hauling cane from Cuban fields to mills is 60 cubic meters, or 30 metric tons, i. e., 66,138 pounds, and the Cuban cane rates were, and still are, subject as a minimum to capacity of car so that the

average per car charge is based on minimum weight of slightly more than 66,000 pounds. Therefore, the scale adopted for application to Clewiston was to be applied in connection with carload minimum weight of 30 tons, and trainload minimum of 30 cars per train, same as in Cuba. The scale so decided upon was substantially lower than the one previously considered, but no corresponding change was made in the proposed outbound rate on raw sugar to Port Wentworth.

At the close of the December 4, 1928, conference, Mr. Cole stated that offhand the proposed trackage arrangement with its contemplated mileage scale of rates struck him as reasonable, but that he desired to give further study to the [fol. 1021] matter of a trackage arrangement and communicate with the railroads as soon as conclusion could be reached.

After his return, Mr. Cole telegraphed the railroads on December 7, 1928, that according to his understanding the 6 cents for accessorial services added to the Cuban trackage scale was in consideration of the use by the sugar mill of its own cars rather than railroad cars and asked that this amount be deducted from the mileage scale of rates tentatively agreed upon at the Washington conference of December 4th. Although it appeared that the 6 cents added in Cuba was for certain other accessorial matters, the Atlantic Coast Line Railroad and Florida East Coast Railway nevertheless decided that, for the purpose of assisting in the early stages of the Sugar Company's operation, they would reduce the scale previously named by 6 cents per ton, making it 9 cents for hauls of 5 miles or less; 12 cents for 10 miles and over 5 miles; 16 cents for 15 and over 10 miles; 19 cents for 20 and over 15 miles, and 22 cents per ton for 30 and over 20 miles.

Later, Mr. Cole wired on December 31st seeking two additional concessions. First, he asked that the trainload minimum be made only 15 cars for the reason that the Sugar Company might desire at times to load a smaller number of cars than previously agreed. Second, he asked that the carload minimum weight be made only 38,000 pounds since the carload minimum weight of 30 tons would handicap the mill during the early stages of its operation. Mr. Cole was advised that the railroads did not think he should ask them

to reduce their carload or trainload revenue below that yielded on the Cuban basis and that if he desired a reduc-
[fol. 1022] tion in the number of tons per car with corresponding increase in the rate per ton so as to produce the same average per car earnings they were willing to work this out. Similarly, he was told that if he wished a reduction in the number of cars per train for the 1928-29 season only, such readjustment of rates per ton and minimum number of cars per train as to yield per train revenue equivalent to the Cuban basis might be arranged. Mr. Cole replied on January 2nd that, although he had asked for minimum weight of 38,000 pounds, the highest minimum that he could possibly accept would be 24 tons, figuring on 4 tons for the Athey wagons and 6 wagons per car. He said it was extremely vital the first season at least that the trainload minimum be no greater than 15 cars since there would be many cases in which the trains would not carry more than 15 cars, especially from Liberty Point and Bare Beach where the capacities of the loading sidings were then 15 cars each. On January 7th, Mr. Cole was advised by telegraph that the railroads regretted they could not consider any reduction in the minimum weight of 30 tons per car, to which the agreed trackage rates were subject, but, for that season only, they were willing to subject the rates to minimum of 15 cars per train with the understanding that in the following season, when the movement should become heavier, the minimum would be made 20 cars per train.

Mr. Cole continued to urge that the minimum weight be made 48,000 pounds and he was advised on January 8th that the only condition under which the railroads could favorably consider making the weight 24 tons would be on basis of increasing the trackage charge proportionately so that the per car earnings would not be affected. However, at a con-
[fol. 1023] ference held in St. Augustine, Fla., on January 17, 1929, and attended by Mr. Rodenbaugh and Mr. Kirtland, of the Florida East Coast, Mr. C. McD. Davis, of the Atlantic Coast Line, and Messrs. Dahlberg, Burgueries and Cole, of the Sugar Corporation, Mr. Dahlberg made a plea for help during the formative period of the activities of the Southern Sugar Corporation and after much discussion, it was agreed that the railroads would reduce the carload minimum weight from 30 tons to 24 tons per car to be ap-

plicable that year only and without compensating increase in the rates already agreed upon.

The arrangement for operation into Clewiston by the Sugar Corporation of its trains with its own cars, engines and crews over the rails of the Atlantic Coast Line Railroad on basis of a trackage scale of mileage rates six cents per ton less than substantially the equivalent of the scale applicable in Cuba, but subject to minimum weight of only 48,000 pounds instead of 66,138 pounds, as in Cuba, and to minimum of only 15 cars instead of 30 cars per train, as in Cuba, was embodied in a contract between the Atlantic Coast Line Railroad and the Sugar Corporation, dated January 12, 1929, and limited to apply during the 1928-29 season only. It provided that the product of all cane transported on basis of this scale would be shipped out of Clewiston via Atlantic Coast Line Railroad. The mill at Clewiston went into operation on January 14, 1929. At that time the mill at Canal Point was still in operation but no trackage arrangement with the Florida East Coast covering operation into Canal Point was made or considered necessary for operation during the 1928-29 season.

[fol. 1024] In April, 1929, Mr. Cole wrote that the contract would expire in August and said the 1928-29 season's production of cane had been much less than anticipated, largely on account of indirect effects of a hurricane, and that the Sugar Company had, therefore, been unable adequately to test the operation of the arrangement. He sought a renewal of the contract for the next season on the same basis and Mr. C. McD. Davis, then Vice President, Atlantic Coast Line Railroad, consented but advised Mr. Cole that his concurrence must be with definite understanding that the arrangement would cover the 1929-30 season only.

On July 15, 1929, having determined to abandon operation of the sugar mill at Canal Point, certainly for the 1929-30 season, and to enlarge the mill at Clewiston, Messrs. Burgueries and Cole, of the Southern Sugar Company, discussed with Mr. H. N. Rodenbaugh, Vice President, Florida East Coast Railway, the possibility of moving Florida East Coast sugar cane to Clewiston via FEC Ry to Lake Harbor and ACL RR beyond. They desired a trackage arrangement, such as covered by the contract

already executed with the Atlantic Coast Line Railroad covering movement of cane originating at Coast Line stations but were advised that transportation of the cane on any such basis of rates would be entirely out of the question, certainly unless the sugar produced from cane originating on the Florida East Coast could be delivered by the Coast Line to the East Coast at Lake Harbor for movement over its line to Jacksonville, Fla., en route to the refinery at Port Wentworth.

These rates on cane, together with the rate on raw sugar from Clewiston to Port Wentworth via the Lake Harbor [fol. 1025] route, were discussed by Mr. Rodenbaugh, Vice President, and Mr. H. E. C. Hawkins, General Freight Agent, of the Florida East Coast Railway, and Mr. J. W. Perrin, Freight Traffic Manager, Atlantic Coast Line Railroad, with Mr. Cole at a conference in Montreal, Quebec, on July 24, 1929. Mr. Cole endeavored to induce the railroads to permit movement of the Florida East Coast cane to Clewiston in joint line service on basis of the single line scale of trackage rates. He was told that the arrangements with both the Coast Line and the Florida East Coast were strictly single line transit arrangements and that the Florida East Coast felt that if cane grown on its line was to be manufactured at Clewiston, a point not reached by the Florida East Coast, it must not only have the product of the cane returned to it at Lake Harbor, but it ought to apply a trackage scale of mileage rates on the cane about 50 percent higher than applicable from Coast Line stations to Clewiston. However, in an effort to foster the new industry, the Atlantic Coast Line Railroad agreed, not only to apply for its haul from Lake Harbor to Clewiston on the Florida East Coast cane the same mileage scale as on cane originating at Coast Line origins, but also to enter into what was considered the rather novel and liberal arrangement of providing, as a transit arrangement in the contract, that sugar produced from cane originating on the Florida East Coast Railway would be shipped via Atlantic Coast Line Railroad to Lake Harbor, Florida East Coast Railway to Jacksonville and Atlantic Coast Line Railroad to Savannah for movement by the Savannah & Atlanta Railway to the refinery at Port Wentworth.

Finally, after further negotiations, the Florida East

Coast Railway reluctantly abandoned its position that the [fol. 1026] mileage scale for movement of cane from its stations to Canal Point, en route to Clewiston, should be 150 percent of the scale for single line movements and consented to operate the same scale from its stations to Canal Point as the Atlantic Coast Line Railroad would operate from Canal Point to Clewiston. Agreements dated August 21, 1929, were therefore made by the Sugar Company with both the Coast Line and Florida East Coast.

The resulting rates, based on combinations over Lake Harbor of the scales for the distances to and beyond that junction, in comparison with single line scale for the through distances, as sought by Mr. Cole, were as follows:

From	Combination	Single Line Scale
Canal Point	34	22
Runyon	28	22
Dahlberg	24	19
South Shore	21	16
Miami Locks	21	12

Nevertheless, this was an immense concession on the part of the railroads. The minimum weight to govern the mileage scale of trackage rates on the Florida East Coast was made the same temporarily and for the 1929-30 season only, as had been agreed to by Mr. Davis for temporary application on the Coast Line.

The trackage agreements were renewed from year to year by drawing up new agreements at the beginning of each season until the contract for the 1941-1942 season, which, for reasons that I shall outline later, was the last in the series of these cane hauling trackage agreements. So far as the rates were concerned, no change was made in the mileage scales included in any of these contracts, except that the contract covering the 1936-37 season's [fol. 1027] operations, and subsequent ones, provided a further reduction in the rate on cane originating at Canal Point, by far the most important cane shipping origin. As previously stated, the rate from Canal Point was 34 cents per ton, made by combining the Florida East Coast single line scale rate of 22 cents to Lake Harbor and the

Atlantic Coast Line Railroad scale rate of 12 cents beyond. This rate was reduced to 28 cents, the Florida East Coast arbitrarily accepting 18 cents, or 4 cents less than its single line scale, and the Atlantic Coast Line arbitrarily accepting 10 cents, or 2 cents less than its scale. This reduction was made by the railroads in compliance with very urgent request made by the President of the Sugar Corporation during October, 1936.

So far as the carload minimum weights were concerned, however, the story is entirely different. As already stated, it had originally been understood that the mileage scale would be subject to carload minimum weight of 60,000 pounds but that in the original trackage agreement of January 12, 1929, a concession was made under which minimum weight of only 48,000 pounds was provided. That minimum weight continued in force through the 1930-31 season and from an examination of the early records of actual movement from points on the Florida East Coast Railway, the only such records we have, it would seem that, although a few cars were loaded to less than 48,000 pounds, there was no particular difficulty about loading the vast majority of cars not only to, but well in excess of 48,000 pounds.

[fol. 1028] This is substantiated by the statement of four pages now offered as my Exhibit No. 30 (A), which lists every carload of sugar cane moving from Florida East Coast origins to Clewiston during the first week of the 1930-31 season and shows the number of tons in each of the cars. It will be observed that, although the recapitulation on page 4 shows that the average loading during this week was the lightest for any week, except the second and third weeks of the season, loading to less than 24 tons was decidedly the exception to the rule. Many cars loaded well over 25 tons, or 50,000 pounds, and two of them actually loading in excess of 70,000 pounds. The recapitulation on page 4 shows that the average loading for the entire season was 52,940 pounds the average loading by weeks ranging from 47,140 pounds to 54,580 pounds.

However, before the beginning of the 1931-32 season, Mr. R. Y. Patterson, Director of Traffic, Southern Sugar Corporation, asked the Atlantic Coast Line Railroad that the same rates be applied for the approaching season as during the previous season, but that the carload minimum

weight be reduced from 24 tons to 20 tons. The reason offered was that some varieties of cane could not be loaded to 24 tons, also that crooked cane of any variety, on account of its bulk and inability to load compactly, could not be loaded that heavily. The railroads were asked to establish a lower minimum weight on hand-cut than on harvester-cut cane. Mr. Patterson was advised that the rates had originally been made with the thought that they would be subject to minimum weight of 60,000 pounds and the railroads could not consistently reduce their per-car earnings, but if a minimum weight of 20 tons instead of 24 tons was [fol. 1029] desired for application on hand-cut cane there would have to be a compensating increase in the rates so as to preserve the per-car revenue.

Later, Mr. Patterson telegraphed the railroads and said it would be satisfactory to the Sugar Corporation if the carload minimum weight for only the 1931-32 season's movement could be reduced from 24 tons to 22 tons. Notwithstanding previous advices about the necessity of offsetting any reduction in minimum weight with a compensating increase in the rates, the Coast Line decided to make this temporary concession as the Sugar Corporation was in receivership and it was our desire to assist it in its difficulties. Therefore, Mr. Davis advised Mr. Patterson that contract for the 1931-32 season's movement was being prepared on basis of the rates named in the prior contract, but subject to minimum weight of only 22 tons, and it must be understood that such minimum weight, as well as the low per-ton rates, was to be applicable for that season only and that for the 1932-33 season they must be based upon a more remunerative level.

Just before the opening of the 1932-33 season, Mr. Patterson sought reinstatement of the previous rates, but subject to minimum weight of only 20 tons. He said inability to load a number of cars as heavily as 22 tons was due to crooked cane and small barreled cane—not to the method of loading—and that in the approaching season there would be some crooked cane caused by the high winds of August 29, 1932. Mr. Patterson said that cane originating on the Florida East Coast in the previous season had been loaded somewhat more heavily on the average than cane originating at Coast Line stations and that this was due

[fol. 1012]

RESPONDENT'S EXHIBIT No. 27

I. C. C. Docket No. 30140.

Witness: McCormack

Statement Showing Tons Originated, Miles of Road Operated, Revenue Ton Miles and Traffic Density on the L&N RR for Year 1948 in the State of Florida, Compared With Other Southern States.

Line	Commodity Group, C. L.	Tons Originated on L&N RR						
		Florida	Alabama	Georgia	Mississippi	Tennessee	Kentucky	Total
1	Products of Agriculture	44,289	200,032	4,245	269	215,631	466,920	
2	Animals and Products	439	11,173	432	1,727	52,918	124,557	
3	Products of Mines	97,401	8,180,045	396,942	1,057	3,916,872	33,158,826	
4	Products of Forests	353,762	1,054,187	274,386	67,782	278,905	441,294	
5	Manufactures and							
6	Miscellaneous	201,515	4,243,890	51,338	69,407	2,180,493	1,092,413	
7	Forwarder Traffic	17	228	10	—	—	62,926	
8	TOTAL	697,423	13,689,555	727,353	140,212	6,644,819	35,346,936	
9	Miles of Road Operated							
10	at Close of Year	242.77	1,163.73	215.40	73.75	892.80	1,817.91	4,466.36
11	Percent	5.51	26.41	4.89	1.67	20.26	41.26	100.00
12	Revenue ton miles	160,444,000	3,062,164,000	499,736,000	265,502,000	2,478,713,000	9,128,470,000	15,595,029,000
13	Percent	1.03	19.64	3.20	1.70	15.89	58.54	100.00
14	Revenue ton miles per							
15	Mile of Road	660,889	2,631,335	2,320,037	3,600,027	2,776,336	5,021,499	17,010,123
16	(Traffic Density)							
17	Percent	3.89	15.47	13.64	21.16	16.32	29.52	100.00

Authority

18 L&N RR Annual Report to the State Commissions in states shown.

L&N RR Traffic Department

June 21, 1949

[fol. 1013]

ICC Docket 30140

RESPONDENT'S EXHIBIT NO. 28

Witness: McCormack

Statement Showing the Operating Ratio of L. & N. R. R. on Florida Traffic Compared with All Traffic on L&N R. R. Also a Comparison of the Number of Cars and Tons Carried in Florida vs. All L&N R. R. Traffic for Years 1945 and 1948

	Within the State of Florida				All Traffic	
	1945	1948			1945	1948
Operating Revenue	$3,930,658	$3,284,682			$196,541,491	$207,271,683
Operating Expenses	4,279,415	4,324,063			146,481,016	169,453,493
Operating Ratio	108.87%	131.64%			74.53%	81.8%
			% of all traffic			
			1945	1948		
Number of Cars	61,240	61,219	3.53	3.49	1,732,369	1,754,879
Number of Tons	2,089,706	2,027,159	2.98	2.68	70,235,764	75,777,447

L&N RR Traffic Department

June 21, 1949

[fol. 1030] to the greater percentage of acreage in the Florida East Coast territory planted to so-called big barrel cane than in Coast Line territory. He said, however, that the Sugar Corporation would gradually discontinue the production of "small barrel" cane and that within two years its production would have been practically discontinued, so that, although the deficit under the minimum weight during the 1931-32 season had been considerable, it would be less in the 1932-33 season and still less in the 1933-34 season even if minimum weight of 22 tons should be continued.

Having consulted the Florida East Coast Railway, whose interest was equal to, if not greater than, that of the Coast Line, Mr. Davis advised Mr. Patterson that the railroads could not agree to a further reduction in the carload minimum weight unless such reduction was accompanied by a proportionate increase in the rates per ton so as practically to preserve the per-car earnings which were minimum figures. Therefore, the 1932-33 season's contract did not provide for minimum weight of 20 tons; however, it did not revert to the minimum weight of 24 tons, as had been contemplated when the reduction to 22 tons was made as a temporary measure at the beginning of the 1931-32 season, but provided for the same minimum of 22 tons as in that season.

[fol. 1031] Obviously, there could not have been very much necessity for a minimum weight of 20 tons or even 22 tons, certainly on cane originating at Florida East Coast Railway points, in the 1932-33 harvest season for the reason that, as shown by my Exhibit No. 31-(B), the average loading of cane originating on the Florida East Coast during that season was 49,620 pounds, ranging from an average of 47,260 pounds in the last week of the season to a high of 56,600 pounds in the period February 5th to February 11th. In only one of the 19 weeks of the season did the loading fail to average as much as 48,000 pounds and in that week it failed by only 740 pounds.

Mr. Patterson again approached the railroads before the opening of the 1933-34 harvest season for a reduction to 20 tons in the carload minimum weight, stating that "small barrel" cane was likely to be crooked and also light in weight. He said that type of cane was being eliminated

rapidly but that minimum weight of 20 tons was sought for the 1933-34 season because of inability of certain light and bulky types of cane to be loaded as heavily as 22 tons and that even when loaded to 22 tons the extra care in so loading and packing it brought about extra labor expenses, also extra costs for unloading, and it was the desire of the Sugar Corporation to effect a saving of the expense of such auxiliary operations, which auxiliary costs he said were penalizing the Sugar Company more than the tariff penalties under the cane hauling contracts.

Later, Mr. Patterson renewed his appeal, this time basing it largely on the fact that the tropical hurricane of September, 1933, had bent the cane to such an extent that [fol. 1032] it would not be possible to load as compactly as if it were straight. This appeal was supplemented by letter of October 23rd from Vice President and General Manager J. J. Harrington, of the Sugar Corporation, who wrote that the cane fields had been visited on September 3rd and 4th with a violent tropical disturbance which had affected all of the fields; that practically all of the cane had been blown onto the ground and that, although subsequent favorable weather conditions had restored the cane, with few exceptions, to a standing position, all of the stalks were crooked which would add to the harvesting expense and make it particularly difficult to obtain loading of 22 tons in the 1933-34 season.

Under the circumstances, although the 1933-34 season's contracts, dated November 28, 1933, were made to provide for minimum weight of 22 tons, same as in the two preceding seasons, they were supplemented or modified by letters which provided that, beginning with 6:00 A.M. December 15, 1933, and continuing through January 31, 1934, the carload minimum weight would be 20 tons with no change in the rates and that, effective February 1, 1934, and continuing for the remainder of the season, the minimum weight of 22 tons named in the contracts would be observed.

I shall not burden the record with an account of the negotiations which were conducted by representatives of the Sugar Corporation at the beginning of each season, but will content myself with the statement that a request for renewal of such arrangement was made annually as

long as the cane was transported under trackage agreements and each of the contracts through that for the 1941-42 season provided for minimum weight of 22 tons, or [fol. 1033] 44,000 pounds, but was supplemented or modified by letters reducing the minimum weight for the period from the begining of the season through January 31st of that season to 20 tons with the 22-ton minimum named in the contract to govern for the remainder of the season. The railroads were never satisfied with either the rates or the reduced minima to which they had been subjected, always as a temporary measure, and generally with the very firm intention of increasing them before another season. However, any move to increase either the rates or the minima was forestalled each season by the plea that the low rates and the low minimum weights were absolutely necessary for the approaching season and the more of these demands that were acceded to the more difficult it became to force the issue and bring about the increases that railroad traffic people so strongly felt to be warranted.

Along about the first part of 1941, the Brotherhoods of Locomotive Firemen and Enginemen and of Railroad Trainmen on the Florida East Coast Railway became dissatisfied with the fact that the sugar cane trains were being operated by employees of the Sugar Corporation rather than by railroad union employees and instituted proceedings before the National Railroad Adjustment Board with view of having the arrangement discontinued. In its Awards Nos. 5826 and 5827 of June 30, 1941, the National Railroad Adjustment Board sustained the protests as to work performed on the tracks of the Florida East Coast Railway connected with operations of the United States Sugar Corporation. The corresponding labor organizations representing Atlantic Coast Line Railroad employees registered similar protests following which understanding [fol. 1034] was reached that whatever decision might be made with respect to the situation on the Florida East Coast Railway would also apply to the Coast Line.

The awards of the National Railroad Adjustment Board were appealed by the Sugar Corporation to the Courts, but in anticipation of the possibility of failure the Sugar Corporation asked that a clause be incorporated in the

trackage agreement for the 1941-42 season to the effect that in the event requirement should be made that train or trains to be operated under the contract must be manned by a full crew or crews other than employees of the Sugar Corporation, then the latter might at its option thereupon terminate the agreement.

Also, apparently anticipating that the railroad labor organizations would prevail in their case, the officers of the Sugar Corporation appealed to the railroads to take over the entire transportation service and perform it with railroad equipment and railroad labor, but that the railroads use the cane cars owned by the Sugar Corporation, paying it on a mileage basis for such use. It was realized that this would necessitate publication of a tariff of freight charges and that because of operation of the trains by railroad labor and with railroad-owned or leased equipment the freight charges so published must be higher than the mileage scales of trackage charges theretofore existing under the contracts. A conference between representatives of the two railroads, on the one hand, and the President of the United States Sugar Corporation, on the other hand, [fol. 1035] was held in New York on November 17, 1941, and a mileage scale of net transit rates to be published in tariff form was agreed upon. The best guides or indices by which the parties could be governed in determining what would be proper charges for this service were the mileage scales of rates on sugar cane then applicable in the State of Louisiana, where, for many years, cane had been produced on a large scale and moved to the established sugar mills in that territory.

[fol. 1036] Exhibit No. 32(C), two pages, shows on the first page the mileage scales of rates on sugar cane for distances of 40 miles or less than in effect in Louisiana. At that time there were two scales. One, subject to minimum weight of 30,000 pounds, had been prescribed by the Louisiana Commission and the other, subject to minimum weight of 50,000 pounds, had been voluntarily established by the railroads as a temporary measure and subject to expiration date. The scale of voluntary rates, minimum weight 50,000 pounds, did not extend to distances beyond 20 miles.

The third and fourth columns of rates on the first page of the exhibit are the mileage scale rates, subject to carload

minimum weight of 44,000 pounds, that were offered by representatives of the Atlantic Coast Line Railroad and Florida East Coast Railway to the President of the Sugar Corporation. There was a single line scale for application from Atlantic Coast Line origins and a joint line scale, 15 cents per ton higher, for application from Florida East Coast origins. It will be observed that the single line scale rates offered to the Sugar Corporation were substantially less for all distances than the rates prescribed by the Louisiana Commission for use in connection with the minimum weight of 30,000 pounds. In fact, for all distances except 6 miles, they were lower by amounts ranging from 3 cents to 13 cents per ton than even the voluntarily established short-haul rates in Louisiana subject to minimum weight of 50,000 pounds. Incidentally, there was, and is, no movement of sugar cane to Clewiston from any point located six miles away so that the one exception just mentioned was apparent but not actual. [fol. 1037] The exhibit shows that for joint hauls from Florida East Coast Railway stations the rates offered the Sugar Corporation for distances of 30 miles and less, i.e., the distances over which the cane actually moves, ranged from 3 cents to 18 cents per ton less than the rates prescribed by the Louisiana Commission for single line hauls of corresponding lengths with the sole exception that for distances of 25 miles and over 20 miles the proposed joint line Florida rate was 2 cents per ton higher than the single line Louisiana rate.

The President of the Sugar Corporation objected to payment of a higher rate for joint line than for single line hauls of like distances and after some consideration the railroad representatives concluded to make the very great concession of applying the single line scale for joint line, as well as for single line hauls. Furthermore, as indicated by the footnote on page 1 of the exhibit, they made a still further concession before the tariff was published and subjected the agreed rates, both single-line and joint-line, to minimum weight of 40,000 pounds for that part of each season from its beginning through the succeeding January and 44,000 pounds for the remainder of the season, although it had been contemplated that the minimum would be 44,000 pounds throughout the season.

Page two of the exhibit shows the rate situation from the standpoint of the actual cane shipping origins in Florida rather than from the standpoint of a mileage scale basis. The first two columns of rates are those that would have been published had the Louisiana single line scales been observed in making either single line or joint line rates in [fol. 1038] Florida. The third column shows rates for single line movements from Coast Line origins and joint line movements from Florida East Coast origins predicated upon the mileage scale agreed upon for single and joint line application to Clewiston. It will be observed that from Coast Line origins the rates actually published were from 23 to 33 cents per ton less than if they had been based on the Louisiana prescribed scale and from 3 to 8 cents per ton less than they would have been even if predicated on the temporary Louisiana scale which was subject to minimum weight of 50,000 pounds. From Florida East Coast Railway origins the rates established for *joint line* hauls ranged from 13 to 28 cents per ton less than rates prescribed for *single line* hauls of corresponding distances in Louisiana. The Louisiana temporary scale, subject to minimum weight of 50,000 pounds, did not extend to distances as far as those from Runyon and Canal Point to Clewiston but for the shorter distances from Dahlberg and intermediate origins the rates actually established for *joint line* hauls were from 3 to 8 cents less than the Louisiana *single line* basis, subject to minimum weight of 50,000 pounds.

The tariff of net transit rates so agreed upon was filed with the Florida Commission, effective February 12, 1942, but the Sugar Corporation did not discontinue operation of its trains with its own crews and the railroads did not inaugurate their own service and begin operating under the tariff until 12:01 A.M. February 26, 1942.

I may say at this point that, as was brought out at the hearing of ICC Docket No. 30087, United States Sugar Cor- [fol. 1039] poration v. Atlantic Coast Line Railroad Company, et al., before Commissioner Alldredge in St. Petersburg, Fla., on January 6 and 7, 1949, and admitted by Witness D. B. Green, the railroads made an error when they showed on the title page of the Tariff of Net Transit Rates, effective February 12, 1942, that it applied only on Florida intrastate traffic and filed it with the Florida Commission

rather than with the Interstate Commerce Commission. This was true, since the outbound movement of sugar produced from the cane moving into Clewiston on these net transit rates was and always has been to Port Wentworth, Ga., an interstate destination. However, being convinced of their error in this respect, the railroads promised Commissioner Alldredge that they would file the tariff with the Interstate Commerce Commission. This they did by Atlantic Coast Line Railroad ICC No. B-3219, Freight Tariff No. 91-50-O, to become effective April 13, 1949, and reissued by ICC No. B-3220, Freight Tariff No. 91-50-P, also filed to become effective April 13, 1949. The reissue was necessitated by a minor situation in which the Interstate Commerce Commission's Bureau of Tariffs felt that ICC No. B-3219 failed to comply fully with one of the tariff rules.

Upon protest of the U. S. Sugar Corporation, these tariffs were suspended by order of the Interstate Commerce Commission in I&S Docket No. 5646. I understand the protest was due principally to the fact that, whereas Freight Tariff No. 91-50-N does not subject the rates therein to either Ex Parte 162, Ex Parte 166 or Ex Parte 168 increases, authority to do so never having been granted by the Florida Commission, the rates therein were subjected to [fol. 1039a] these increases when published as interstate rates in Tariffs 91-50-O and 91-50-P, ICC Nos. B-3219 and B-3220.

[fol. 1040] The history of the net transit rates on sugar cane to Clewiston from the time of their publication and filing with the Florida Commission until the present day can be dealt with more intelligently if we make two divisions, one treating with rates and the other with carload minimum weights. The statement now offered as Exhibit No. 33(D) shows the net transit rates which became effective February 12, 1942, and all of the subsequent changes therein, together with the rates which we are proposing. It will be observed that the present rates are exactly the same as those originally published in February, 1942, and arrived at as I have already explained. During the period March 18, 1942, through May 14, 1943, and again during the period July 1, 1946, through February 2, 1947, temporary increase of 3 percent made under Ex Parte 148, or the corresponding docket of the Florida Commission, were in effect, but, as

shown by the footnote, the Florida Commission required the railroads to withdraw the rates as so increased 3 percent and reinstate the original rates, effective May 3, 1947. The Florida Commission has denied the petitions of the railroads for increases in these rates corresponding to the increases granted by the Interstate Commerce Commission under Ex Parte 162 and 166. The rates in the last column are nothing more or less than what the rates as of February 12, 1942, and at present in effect, would be if subjected to the same measure of increase as granted by the Interstate Commerce Commission in Ex Parte 162 and Ex Parte 166.

[fol. 1041] So far as the carload minimum weights are concerned, that story is told by the memorandum of two pages which I now offer as my Exhibit No. 34(E), which shows in chronological order the provisions of the Sugar Cane Transit Tariff and its subsequent reissues with respect to carload minimum weights governing the rates to Clewiston. All of the reissues of the tariff are included in the memorandum, although several, for example Tariff 91-E and 91-F, were not occasioned by any change in the carload minimum weight.

[fol. 1042] Some of the weights, particularly the weight of 44,000 pounds shown as applying from June 2 of any given year through the end of the season, had no practical application for the reason that, as yet, no cane grinding season has continued as late in the year as June 2nd. For this reason, I offer as my Exhibit No. 35 (F) a memorandum showing for each of the harvest seasons since publication of the tariff, i. e., 1941-42 season through 1948-49 season, the carload minimum weights governing the net transit rates, also the dates of opening and closing of each season. It will be observed that the minimum weights of 40,000 pounds from the beginning of the season through January 31st and 44,000 pounds from February 1st through the end of the season were continued through the first three seasons after the tariff of net transit rates went into effect. During this time no complaint was made nor was question of any kind raised concerning the minimum weight, but on September 1, 1944, Mr. R. Y. Patterson, of the Sugar Corporation, advised the Atlantic Coast Line Railroad and

Florida East Coast Railway that, although the carload minimum weights just mentioned had very nearly fit the situation in past seasons, it had been impossible since the beginning of World War II to obtain sufficient labor to load the Athey wagons in the cane fields in the same manner as had previously been the custom. He said that, instead of loading the cane into the wagons by hand as in previous seasons, resort would have to be had to mechanical loading devices and that cane, as cut and piled in the field, would be loaded by drag lines or by small machines operating in [fol. 1043] somewhat the same manner as a drag line but using a skeleton bucket. He said that the position of cane loaded into wagons in this way could not be controlled since it would be in various positions and not stacked by hand as theretofore, which meant that the same cane, when transferred from wagons to cars at loading hoists, would be more or less matted and the stalks would not be laid straight or compactly. In other words, there would be more voids or air spaces between the stalks, thus making for lighter carloading. In view of this effect of the labor shortage caused by the war, the railroads were asked to make some concession by way of reducing the governing carload minimum weight but Mr. Patterson stated he would not expect an increase in the rates, assuming the reduction in minimum weight would be made without reference to the freight rate.

Mr. Patterson was reminded that in agreeing to these low rates at the November 17, 1941, conference the railroads naturally took into consideration the per-car earnings which were measured not only by the rate but by the attendant minimum weight and that in order to maintain the per-car earnings then in contemplation the rates should be increased in an amount to correspond with whatever reduction might be made in the carload minimum weight. Railroad representatives delegated to investigate the situation reported that many cars of cane loaded by machinery were arriving at the mill with full tonnage while others, originating at the same points, were arriving with light tonnage which indicated the possibility of loading to full tonnage with mechanical devices if sufficient care should be taken. It was reported that there was not sufficient variation in the character of the cane to justify such varia-

[fol. 1044] tion in the average loading and that the fluctuation between carload weights was attributable generally to the fact that some loading crews were more efficient or were more carefully supervised than others.

However, having first consulted the Florida East Coast, Mr. R. J. Doss, Vice President, Atlantic Coast Line Railroad, went to Clewiston on November 3, 1944, and in conference with Mr. Patterson agreed that purely as a temporary measure and for the 1944-45 season only, the carload minimum weight would be reduced to 38,000 pounds as a help-out to the Sugar Corporation in consideration of the labor difficulties it was then having and without any change in rates. He did this notwithstanding the justification for a corresponding rate increase if there was to be any reduction in the carload minimum weight. Joint petition was filed by Atlantic Coast Line Railroad and Florida East Coast Railway with the Florida Commission for relief from the Florida Long and Short Haul Law and the Florida Commission's Freight Rule 2. That petition read in part as follows:

> "The present rates are considered by your petitioners as unusually low and are justified only in the light of the unusual circumstances and conditions surrounding the movement and having in mind particularly that the sugar cane, at the time the rates were established, could be loaded to or in excess of 40,000 pounds per car during part of the season and 44,000 pounds per car during the balance and, further, that the rates apply when in trainload lots of not less than 15 cars per train; also that there is a subsequent and further movement by rail of the product of the sugar cane. In view of the present shortage of manpower due to the war and the consequent necessity of loading the preponderance of the movement by mechanical devices, your petitioners are willing to continue the existing rates and the rules and regulations in connection therewith as published in the tariff previously referred to, but only as a temporary measure and subject to an expiration date of June 1, 1945, to change the carload minimum weights to 38,000 pounds."

[fol. 1045] As shown by the exhibit, however, the 38,000

pound minimum was again published for application in the 1945-46 season. Such publication was the result of similar plea from the Sugar Corporation and similar petition filed with the Florida Commission and containing statement substantially same as the one I have just read.

In September, 1946, Mr. Patterson asked that the minimum weight for the approaching season be made only 36,000 pounds for application from the beginning of the season until January 1, 1947, and 38,000 pounds from January 1st through the remainder of the season. He said that in the previous season cars had not been loaded to an average of 38,000 pounds or more until well after the season had begun and the season's penalty against the Sugar Corporation for loading less than the minimum had been $9,813.75. The Coast Line and East Coast conferred and concluded to assist the Sugar Corporation in this respect for still another year although it was felt that an increase in the rates corresponding to the reduced minimum should be made.

Mr. Patterson again made a similar request just before the 1947-48 season and again the railroads decided to accommodate the Sugar Corporation, although Mr. Patterson was advised that in view of the attitude of the United States Sugar Corporation in opposing application of the Ex Parte 162 and Ex Parte 166 increases to the extremely low rates on sugar cane to Clewiston there had been reluctance to comply with his request and it was hoped the liberality of the railroads was appreciated. Mr. Patterson was told that [fol. 1046] when first agreed upon these rates were to be subject to minimum weight of 44,000 pounds and he could be assured that they would not have been made as low as they were if it had not been the definite understanding of the railroads that the carload minimum would be 44,000 pounds.

The usual pre-season request from the Sugar Company for temporary reduction in the carload minimum weight was not received before the beginning of the 1948-49 season. In fact, it was not received until Mr. Patterson telephoned the railroads on December 20, 1948, or sixty days after the season had begun, and requested that the previous season's minima be reinstated for the 1948-49 season. At that time

he was advised that, in view of the extremely low measure of the rates, also in view of the action of the United States Sugar Corporation in having prevented any increases in the rates on sugar cane to Clewiston under Ex Parte 162 and Ex Parte 166, as well as the fact, I think, that the war induced labor shortage which had necessitated resort to mechanical loading devices had pretty well come to an end, the railroads could not afford to restore the reduced minima which had been so maintained since the 1945-46 season. Accordingly, the governing carload minimum weights throughout the 1948-49 season were, and now are, 40,000 pounds from the beginning of the season through January 31st and 44,000 pounds for the remainder of the season.

[fol. 1047] The Sugar Company has filed with the Florida Commission a formal complaint attacking these carload minimum weights and alleging "the maximum space capacity of complainant's sugar cane cars permits a maximum loading of 36,000 pounds from October to December 31st and 38,000 pounds from January 1st to the end of the shipping season; and the space limit of the cars prevents and prohibits complainant from loading more than those respective weights of sugar cane in its cane cars."

Anticipating that such contention might be made in the instant proceedings, I have made a complete and careful analysis of the actual performance of all of these cars from the standpoint of tonnage of cane transported to Clewiston during the first month of the first and second period each of the 1948-1949 season's movement. I selected November, 1948, as the month of the first period, i.e., from the beginning of the season through January 31st while the carload minimum weight was 40,000 pounds, for the reason that if the cars could be loaded to or above 40,000 pounds during November then certainly they could be loaded to or above that minimum during the remainder of the first period. This is for the reason that ordinarily the cane becomes heavier as the season progresses.

I had the waybills covering every single shipment examined and a tabulation made showing car number and weight of the contents of each car used. There are 469 cars in the service but the study disclosed that during November, 1948, five of these cars certainly, and possibly a sixth, were not used in line haul service during the month of November.

[fol. 1048] However, of the remaining 463 cars it developed that not a single one failed to carry 40,000 pounds or more cane to Clewiston on at least two occasions. Exhibit No. 36 (G) shows in the first block of figures the findings revealed by the November study. It shows that the smallest number of trips loaded to 40,000 pounds or over made by any of the cars was two and that only two cars made as few trips as two loaded to or above the minimum. Seven of the cars made three trips and ninety of them made eight trips. One made no less than sixteen trips during November with 40,000 or more pounds of cane. The 463 cars made a total of 3,599 trips or an average of 7.77 trips per car in November loaded to or above the minimum weight of 40,000 pounds.

Effective February 1, 1949, the carload minimum weight became 44,000 pounds instead of 40,000 pounds. The second block of Exhibit No. 36 (G) therefore analyzes the movement of the 469 cars in the sugar cane service from the standpoint of actual loading performance during the month of February, 1949. The findings are that not a single one of these 469 cars failed to make at least two trips loaded to 44,000 pounds or more. As a matter of fact, only one car made as few as two trips, only one other made as few as three trips and only one other as few as four trips with 44,000 pounds or more. Four hundred sixty-two of the 469 cars made more than five trips in the short month of February with 44,000 or more pounds of cane. In fact, on many of the trips they carried more than 50,000 pounds and there were a few trips with more than 60,000 pounds. It will be observed that [fol. 1049] 84 cars made ten trips, 85 made eleven trips and 70 made twelve trips, while one made no less than nineteen trips loaded to 44,000 pounds or more. The 469 cars in the service made a total of 5,014 or an average of 10.69 trips in February loaded to or above the minimum weight.

A great deal of care was taken to insure accuracy in the study that revealed these facts which, in the light of the allegations made in the complaint before the Florida Commission, would seem to be rather startling. The figures were compiled by two of our most careful clerks, one of whom called the car numbers and weights from the waybills to the other who wrote them down and then, before passing to the next waybill, the clerk who had written them down read

them back to the other in order to be absolutely certain that there had been no error in drawing off the figures.

[fol. 1050] Lest the inference might be left that most of these cars were loaded only to or slightly above the minimum weight, I have shown in Exhibit No. 37 (H) the details of 15 representative cars among the total of 469 covered by the study. Incidentally, the car numbers run consecutively from No. 101 to 569, inclusive. It will be noted that although naturally some of the cars were loaded only to the minimum or slightly in excess, many others were loaded from one to twenty tons in excess of the carload minimum weight.

[fol. 1051] Exhibit No. 38 (I), three pages, shows the number of cars, the actual weight and the average weight of all sugar cane transported by Atlantic Coast Line Railroad and Florida East Coast Railway to Clewiston during the entire 1948-1949 harvest season, dividing same as between Florida East Coast and Atlantic Coast Line Railroad origination, as between the first period, when the minimum weight was 40,000 pounds, and the second period, when the minimum weight was 44,000 pounds, and also by months. Page one covers all cars, both those loaded above and below the minimum weights, while page two shows the performance of those cars in the movement that were loaded to or above the minimum weight and page three shows the performance of those cars that were loaded to less than the minimum weight. It will be noted from page one that the 1948-49 season's movement amounted to 42,907 cars of which 14,516 originated on the Coast Line and 28,391 on the Florida East Coast. During the first period when the minimum weight was 40,000 pounds the movement amounted to 28,267 cars, loaded to an average of 41,399 pounds. During the second period, when the minimum weight was 44,000 pounds, the movement amounted to 14,640 cars, loaded to an average of 43,817 pounds, or 183 pounds less than the minimum weight. The 42,907 cars handled during the entire season were loaded to an average of 42,224 pounds. Page two shows that, of the 24,007 cars loaded to or above the carload minimum weight, 16,947 cars, averaging 44,492 pounds, moved during the first period, when the minimum weight was 40,000 pounds, and 7,060 cars, loaded to an average of 47,707 pounds, moved during the second period when the minimum weight was 44,000 pounds.